

**LENOX**  
INCORPORATED  
OLD PRINCETON PIKE  
LAWRENCEVILLE, NEW JERSEY 08648

10252 - July 2, 1982

Ms. Jacqueline E. Schafer  
Regional Administrator  
Administration Branch  
26 Federal Plaza  
New York, NY 10007

Dear Ms. Schafer:

I am the chief financial officer of Lenox, Incorporated, Old Princeton Pike, Lawrenceville, New Jersey 08648. This letter is in support of Lenox, Incorporated's use of the financial test to demonstrate financial assurance, as specified in Subpart H of 40 CFR Parts 264 and 265.

1. Lenox China, Incorporated, a wholly owned subsidiary of Lenox, Incorporated, is the owner or operator of the following facility for which financial assurance for closure care is demonstrated through the financial test specified in Subpart H of 40 CFR Parts 264 and 265. The current closure cost estimates covered by the test are shown for each facility:

Lenox China, Incorporated  
Tilton Road  
Pomona, New Jersey 08240

2. Lenox, Incorporated guarantees, through the corporate guarantee specified in Subpart H of 40 CFR Parts 264 and 265, the closure care of the following facility owned or operated by Lenox China, Incorporated, a wholly owned subsidiary of Lenox, Incorporated. The current cost estimates for the closure care so guaranteed are shown for each facility:

Lenox China, Incorporated  
Tilton Road  
Pomona, New Jersey 08240

3. In States where EPA is not administering the financial requirements of Subpart H of 40 CFR Parts 264 or 265, Lenox, Incorporated, as guarantor, is demonstrating financial assurance for the closure care of the following facilities through the use of a test



equivalent or substantially equivalent to the financial test specified in Subpart H of 40 CFR Parts 264 and 265. The current closure cost estimates covered by such a test are shown for each facility: NONE

4. Lenox China, Incorporated, is the owner or operator of the following hazardous waste management facilities for which financial assurance for closure care, is not demonstrated either to EPA or a State through the financial test or any other financial assurance mechanism specified in Subpart H of 40 CFR Parts 264 and 265 or equivalent or substantially equivalent State mechanisms. The current closure cost estimates not covered by such financial assurance are shown for each facility: NONE

Lenox, Incorporated is required to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

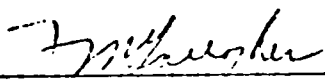
The fiscal year of Lenox, Incorporated ends on December 31. The figures for the following items marked with an asterisk are derived from Lenox, Incorporated's independently audited, year-end financial statements for the latest completed fiscal year, ended December 31, 1981.

ALTERNATIVE I

1. Sum of current closure cost estimates (total of all cost estimates shown in the four paragraphs above).....	\$ 850,000
*2. Total liabilities (if any portion of the closure cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4).....	60,297,000
*3. Tangible net worth.....	126,985,421
*4. Net worth.....	126,991,000
*5. Current assets.....	139,506,000
*6. Current liabilities.....	41,680,000
7. Net working capital (line 5 minus line 6).....	97,826,000
*8. The sum of net income plus depreciation, depletion, and amortization.....	23,084,000
*9. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.).....	N/A

	YES	NO
10. Is line 3 at least \$10 million?.....	X	
11. Is line 3 at least 6 times line 1?.....	X	
12. Is line 7 at least 6 times line 1?.....	X	
*13. Are at least 90% of firm's assets located in the U.S.? If not, complete line 14.....	X	
14. Is line 9 at least 6 times line 1?.....	N/A	
15. Is line 2 divided by line 4 less than 2.0?.....	X	
16. Is line 8 divided by line 2 greater than 0.1?.....	X	
17. Is line 5 divided by line 6 greater than 1.5?.....	X	

I hereby certify that the wording of this letter is identical to the wording specified in 40 CFR 264.151(f) as such regulations were constituted on the date shown immediately below.

  
\_\_\_\_\_  
F. Michael Gallagher  
Vice President - Finance

July 2, 1982  
Date

FMG/sb

Enc. Report of Touche Ross & Company  
1981 Lenox, Incorporated Annual Report  
Corporate Guarantee

**LENOX**  
INCORPORATED  
OLD PRINCETON PIKE  
LAWRENCEVILLE, NEW JERSEY 08648

**Corporate Guarantee for Closure or Post-Closure Care**

Guarantee made this July 2, 1982 by Lenox, Incorporated, a business corporation organized under the laws of the State of New Jersey, herein referred to as guarantor, to the United States Environmental Protection Agency (EPA), obligee, on behalf of our wholly owned subsidiary Lenox China, Incorporated, of Tilton Road, Pomona, New Jersey 08240.

**Recitals**

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in 40 CFR 264.143(f), 264.145(f), 265.143(e), and 265.145(e).

2. Lenox China owns or operates the following hazardous waste management facility covered by this guarantee:

EPA #NJDO2325074  
Lenox China, Incorporated  
Tilton Road  
Pomona, NJ 08240

This guarantee is for closure and post-closure care.

3. "Closure plans" and "post-closure plans" as used below refer to the plans maintained as required by Subpart G of 40 CFR Parts 264 and 265 for the closure and post-closure care of the facility identified above.

4. For value received from Lenox China, guarantor guarantees to EPA that in the event that Lenox China fails to perform "closure and post-closure care" of the above facility in accordance with the closure

or post-closure plans and other permit or interim status requirements whenever required to do so, the guarantor shall do so or establish a trust fund as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, in the name of Lenox China in the amount of the current closure or post-closure cost estimates as specified in Subpart H of 40 CFR Parts 264 and 265.

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the EPA Regional Administrator for the Region in which the facility is located and to Lenox China that he intends to provide alternate financial assurance as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, in the name of Lenox China. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless Lenox China has done so.

6. The guarantor agrees to notify the EPA Regional Administrator by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

7. Guarantor agrees that within 30 days after being notified by an EPA Regional Administrator of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, in the name of Lenox China unless Lenox China has done so.

8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure or post-closure plan, amendment or modification of the permit, the extension or reduction of the time of performance of closure or post-closure, or any other modification or alteration of an obligation of the owner or operator pursuant to 40 CFR Parts 264 and 265.

9. Guarantor agrees to remain bound under this guarantee for so long as Lenox China must comply with the applicable financial assurance requirements of Subpart H of 40 CFR Parts 264 and 265 for the above-listed facility, except that guarantor may cancel this guarantee by sending notice by certified mail to the EPA Regional Administrator for the Region in which the facility is located and to Lenox China, such cancellation to become effective no earlier than 120 days after receipt of such notice by both EPA and Lenox China, as evidenced by the return receipts.

10. Guarantor agrees that if Lenox China fails to provide alternate financial assurance as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, and obtain written approval of such assurance from the EPA Regional Administrator within 90 days after a notice of cancellation by the guarantor is received by an EPA Regional Administrator from guarantor, guarantor shall provide such alternate financial assurance in the name of Lenox China.

11. Guarantor expressly waives notice of acceptance of this guarantee by the EPA or by Lenox China. Guarantor also expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit.

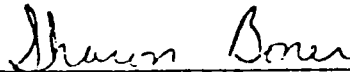
I hereby certify that the wording of this guarantee is identical to the wording specified in 40 CFR 264.151(h) as such regulations were constituted on the date first above written.

Effective date: July 2, 1982

Lenox, Incorporated



F. Michael Callagher  
Vice President - Finance



Witness/ Sharon Boner

*Touche Ross & Co.*

July 2, 1982

Ms. Jacqueline E. Schafer  
Regional Administrator  
Administration Branch  
26 Federal Plaza  
New York, NY 10007

Dear Ms. Schafer:

Touche Ross & Co. is the independent certified public accountant of Lenox, Incorporated and has been such since 1965. We have examined the letter dated July 2, 1982 from F. Michael Gallagher, Vice President-Finance, of Lenox, Incorporated, addressed to you containing financial data which the letter specified as having been derived from the independently audited, year-end financial statements for the latest fiscal year ended December 31, 1981 for Lenox, Incorporated. We have compared the data contained in that letter with the amounts in such financial statements and, in connection with this procedure, no matter came to our attention which causes us to believe that the specified data should be adjusted.

Very truly yours,

*Touche Ross & Co.*



**JAMES**

*Hand Delivered 7/15/82*  
NYS 002 325 074 26

FRED. S. JAMES & CO., INC. OF PENNSYLVANIA Public Ledger Building, Philadelphia, PA 19106 215 928-4600 Telex 834414

PE-82 - July 14, 1982

Mr. Stephen Lichtenstein  
Vice President, Secretary &  
General Counsel  
Lenox, Inc.  
P. O. Box 6449  
Lawrenceville, NJ 08648

Subject: Environmental Impairment Certificate

Dear Mr. Lichtenstein:

Enclosed you will find a copy of the certificate issued by Employers of Wausau to comply with the regulation for sudden and accidental coverage as of 7/15/82.

If you should have any questions, please feel free to give me a call.

Thank you.

Sincerely,

*Maggie Dougherty*  
Maggie Dougherty

/md

Enc.

cc: Mr. William H. Clark

# Wausau Insurance Companies

## HAZARDOUS WASTE FACILITY CERTIFICATE OF POLLUTION LIABILITY INSURANCE

1. Employers Insurance of Wausau A Mutual Company (the "Insurer"), of 1818 Market St., Philadelphia, PA 19101  
(name of insurer) (address of insurer)

\_\_\_\_\_ hereby certifies that it has issued pollution liability insurance

covering bodily injury and property damage to Lenox Incorporated  
(name of insured)

(the "insured"), of P.O. Box 6449, Lawrenceville, NJ 08648  
(address of insured)

in connection with the insured's obligation to demonstrate financial responsibility under 40 CFR 264.147 or 265.147.

The coverage applies at:

EPA Identification  
Number

Name and address  
(Show each facility separately)

NJD02325074

Lenox China, Inc. Tilton Road Pomona, NJ 08240

for ☒ Sudden accidental occurrences ☐ Nonsudden accidental occurrences  
☐ Sudden and nonsudden accidental occurrences.

The limits of liability are \$ 1,000,000 Each Occurrence and \$ 2,000,000 annual aggregate, exclusive of legal defense costs. The coverage is provided under policy number 2223-00-043430 issued on 5/20/82. The effective date of said policy is 4/1/82.

2. The Insurer further certifies the following with respect to the insurance described in paragraph 1.
- (a) Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy.
  - (b) The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in 40 CFR 264.147(f) or 265.147(f).
  - (c) Whenever requested by a Regional Administrator of the U.S. Environmental Protection Agency (EPA), the Insurer agrees to furnish to the Regional Administrator a signed duplicate original of the policy and all endorsements.
  - (d) Cancellation of the insurance, whether by the Insurer or the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the Regional Administrator(s) of the EPA Region(s) in which the facility(ies) is (are) located.
  - (e) Any other termination of the insurance will be effective only upon written notice and only after the expiration of thirty (30) days after a copy of such written notice is received by the Regional Administrator(s) of the EPA Region(s) in which the facility(ies) is (are) located.

I hereby certify that the wording of this instrument is identical to the wording specified in 40 CFR 264.151(j) as such regulation was constituted on the date first above written, and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as excess or surplus lines insurer, in one or more States.

Special Provisions:

*David P. Keller*

Issued to:

- Jacqueline E. Schafer  
Regional Administrator  
US EPA  
Room 900  
26 Federal Plaza  
New York, New York 10278

(Signature of Authorized Representative of Insurer)  
David Keller Insurer  
(Type Name)  
Authorized Representative of Regional Casualty Underwriting Manager  
Employers Insurance of Wausau A Mutual Company  
(Name of Insurer)  
1818 Market St., Philadelphia, PA 19103

# LENOX

INCORPORATED

OLD PRINCETON PIKE

LAWRENCEVILLE, NEW JERSEY 08648

STEPHEN F. LICHTENSTEIN  
VICE-PRESIDENT & SECRETARY  
GENERAL COUNSEL

26  
~~NY 000023~~  
NY 0002325074

1982- July 15, 1982

*Joel Simon*

Ms. Jacqueline E. Schafer  
Regional Administrator  
US EPA  
Room 900  
2600 Federal Plaza  
New York, New York 10278

Dear Ms. Schafer:

As General Counsel of Lenox, Incorporated, the parent of Lenox China, Incorporated - a wholly owned subsidiary, this is to confirm that Lenox China, Incorporated is covered by hazardous waste facility pollution liability insurance for sudden accidental occurrences with limits of liability of \$1 million for each occurrence and \$2 million annual aggregate, exclusive of legal defense costs. The coverage is provided by Wausau Insurance Companies, policy no. 2223-00-043430. This coverage is provided pursuant to Lenox China's obligation to demonstrate financial responsibility under 40 CFR 264.147 or 265.147.

A copy of the Certificate of Insurance is enclosed. The original Certificate was sent directly to you by Wausau Insurance Companies.

Very truly yours,

LENOX, INCORPORATED

*Stephen F. Lichtenstein*

Stephen F. Lichtenstein

SFL:bp  
Enclosure

cc. J.G. Fitzpatrick

CORRESPONDENCE CONTROL  
REGION II  
NEW YORK, N.Y.

JUL 21 5 28 PM '82

ENVIRONMENTAL PROTECTION  
AGENCY  
NEW YORK, N.Y.

U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
REGION II  
NEW YORK, N.Y.  
JUL 22 3 02 PM '82  
AIR & WASTE MANAGEMENT  
DIVISION

# Wausau Insurance Companies

## HAZARDOUS WASTE FACILITY CERTIFICATE OF POLLUTION LIABILITY INSURANCE

1. Employers Insurance of Wausau A Mutual Company (the "Insurer"), of 1818 Market St., Philadelphia, PA 19103 (name of Insurer) (address of Insurer)

hereby certifies that it has issued pollution liability insurance

covering bodily injury and property damage to Lenox Incorporated (name of insured)

(the "insured"), of P.O. Box 6449, Lawrenceville, NJ 08648 (address of insured)

in connection with the insured's obligation to demonstrate financial responsibility under 40 CFR 264.147 or 265.147.

The coverage applies at:

EPA Identification  
Number

Name and address  
(Show each facility separately)

NJDO2325074

Lenox China, Inc. Tilton Road Pomona, NJ 08240

for ☒ Sudden accidental occurrences ☐ Nonsudden accidental occurrences  
☐ Sudden and nonsudden accidental occurrences.

The limits of liability are \$ 1,000,000 Each Occurrence and \$ 2,000,000 annual aggregate, exclusive of legal defense costs. The coverage is provided under policy number 2223-00-043430 issued on 5/20/82. The effective date of said policy is 4/1/82.

2. The Insurer further certifies the following with respect to the insurance described in paragraph 1.
- (a) Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy.
  - (b) The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in 40 CFR 264.147(f) or 265.147(f).
  - (c) Whenever requested by a Regional Administrator of the U.S. Environmental Protection Agency (EPA), the Insurer agrees to furnish to the Regional Administrator a signed duplicate original of the policy and all endorsements.
  - (d) Cancellation of the insurance, whether by the Insurer or the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the Regional Administrator(s) of the EPA Region(s) in which the facility(ies) is (are) located.
  - (e) Any other termination of the insurance will be effective only upon written notice and only after the expiration of thirty (30) days after a copy of such written notice is received by the Regional Administrator(s) of the EPA Region(s) in which the facility(ies) is (are) located.

I hereby certify that the wording of this instrument is identical to the wording specified in 40 CFR 264.151(j) as such regulation was constituted on the date first above written; and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as excess or surplus lines insurer, in one or more States.

Special Provisions:

Issued to:

- Jacqueline E. Schafer  
Regional Administrator  
US EPA  
Room 900  
26 Federal Plaza  
New York, New York 10278

*David P. Keller*

(Signature of Authorized Representative of Insurer)  
Insurer

David Keller  
(Type Name)  
Authorized Representative of Regional Casualty Underwriting Manager

Employers Insurance of Wausau A Mutual Company  
(Name of Insurer)

1818 Market St., Philadelphia, PA 19103  
(Address of Representative)

# LENOX

INCORPORATED

OLD PRINCETON PIKE

LAWRENCEVILLE, NEW JERSEY 08648

STEPHEN F. LICHTENSTEIN

VICE-PRESIDENT & SECRETARY  
GENERAL COUNSEL

GRANTS ADMINISTRATION  
LENOX  
BRANCH VI

JUL 21 9 25 AM '82

ENVIRONMENTAL PROTECTION  
AGENCY  
NEW YORK, NEW YORK 10007

July 19, 1982

Ms. Jacqueline E. Schafer  
Regional Administrator  
Administration Branch  
26 Federal Plaza  
New York, New York 10278

Dear Ms. Schafer:

I am enclosing with this letter the following:

1. A letter to you dated July 2, 1982 from the Vice President-Finance of Lenox, Incorporated in compliance with Federal Regulations for demonstration of financial assurance with regard to closure costs.
2. Special report dated July 2, 1982 from our independent certified public accountants Touche Ross & Co.
3. Lenox, Incorporated Corporate Guarantee for Closure or Post-Closure Care.
4. Lenox, Incorporated 1981 Annual Report to shareholders.

These were mailed by certified mail, return receipt requested to your office using the zip code set forth in the Federal Register dated April 7, 1982. This package was returned to Mr. Gallagher today (July 19th). Apparently because of the use of the old zip code, which I was advised today was changed at least one year ago.

In any event, I believe that our mailing of this material on July 2nd meets the requirements of filing by July 6, 1982. A copy of the envelope showing the July 2, 1982 postmark, address and returned stamp is enclosed.

Sincerely yours,

LENOX, INCORPORATED

  
Stephen F. Lichtenstein

SFL:bp

**LENOX**  
INCORPORATED  
OLD PRINCETON PIKE  
LAWRENCEVILLE, NEW JERSEY 08648

July 2, 1982

Ms. Jacqueline E. Schafer  
Regional Administrator  
Administration Branch  
26 Federal Plaza  
New York, NY 10007

Dear Ms. Schafer:

I am the chief financial officer of Lenox, Incorporated, Old Princeton Pike, Lawrenceville, New Jersey 08648. This letter is in support of Lenox, Incorporated's use of the financial test to demonstrate financial assurance, as specified in Subpart H of 40 CFR Parts 264 and 265.

1. Lenox China, Incorporated, a wholly owned subsidiary of Lenox, Incorporated, is the owner or operator of the following facility for which financial assurance for closure care is demonstrated through the financial test specified in Subpart H of 40 CFR Parts 264 and 265. The current closure cost estimates covered by the test are shown for each facility:

Lenox China, Incorporated  
Tilton Road  
Pomona, New Jersey 08240

2. Lenox, Incorporated guarantees, through the corporate guarantee specified in Subpart H of 40 CFR Parts 264 and 265, the closure care of the following facility owned or operated by Lenox China, Incorporated, a wholly owned subsidiary of Lenox, Incorporated. The current cost estimates for the closure care so guaranteed are shown for each facility:

Lenox China, Incorporated  
Tilton Road  
Pomona, New Jersey 08240

3. In States where EPA is not administering the financial requirements of Subpart H of 40 CFR Parts 264 or 265, Lenox, Incorporated, as guarantor, is demonstrating financial assurance for the closure care of the following facilities through the use of a test

equivalent or substantially equivalent to the financial test specified in Subpart H of 40 CFR Parts 264 and 265. The current closure cost estimates covered by such a test are shown for each facility: NONE

4. Lenox China, Incorporated, is the owner or operator of the following hazardous waste management facilities for which financial assurance for closure care, is not demonstrated either to EPA or a State through the financial test or any other financial assurance mechanism specified in Subpart H of 40 CFR Parts 264 and 265 or equivalent or substantially equivalent State mechanisms. The current closure cost estimates not covered by such financial assurance are shown for each facility: NONE

Lenox, Incorporated is required to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.


The fiscal year of Lenox, Incorporated ends on December 31. The figures for the following items marked with an asterisk are derived from Lenox, Incorporated's independently audited, year-end financial statements for the latest completed fiscal year, ended December 31, 1981.

ALTERNATIVE I

1. Sum of current closure cost estimates (total of all cost estimates shown in the four paragraphs above).....	\$ 850,000
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*4. Net worth.....	126,991,000
*5. Current assets.....	139,506,000
*6. Current liabilities.....	41,680,000
7. Net working capital (line 5 minus line 6).....	97,826,000
*8. The sum of net income plus depreciation, depletion, and amortization.....	23,084,000
*9. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.).....	N/A

	YES	NO
10. Is line 3 at least \$10 million?.....	X	
11. Is line 3 at least 6 times line 1?.....	X	
12. Is line 7 at least 6 times line 1?.....	X	
*13. Are at least 90% of firm's assets located in the U.S.? If not, complete line 14.....	X	
14. Is line 9 at least 6 times line 1?.....	N/A	
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16. Is line 8 divided by line 2 greater than 0.1?.....	X	
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I hereby certify that the wording of this letter is identical to the wording specified in 40 CFR 264.151(f) as such regulations were constituted on the date shown immediately below.

  
\_\_\_\_\_  
F. Michael Gallagher  
Vice President - Finance

July 2, 1982  
Date

FMG/sb

Enc. Report of Touche Ross & Company  
1981 Lenox, Incorporated Annual Report  
Corporate Guarantee



*Touche Ross & Co.*

July 2, 1982

Ms. Jacqueline E. Schafer  
Regional Administrator  
Administration Branch  
26 Federal Plaza  
New York, NY 10007

Dear Ms. Schafer:

Touche Ross & Co. is the independent certified public accountant of Lenox, Incorporated and has been such since 1965. We have examined the letter dated July 2, 1982 from F. Michael Gallagher, Vice President-Finance, of Lenox, Incorporated, addressed to you containing financial data which the letter specified as having been derived from the independently audited, year-end financial statements for the latest fiscal year ended December 31, 1981 for Lenox, Incorporated. We have compared the data contained in that letter with the amounts in such financial statements and, in connection with this procedure, no matter came to our attention which causes us to believe that the specified data should be adjusted.

Very truly yours,

*Touche Ross & Co.*

**LENOX**  
INCORPORATED  
OLD PRINCETON PIKE  
LAWRENCEVILLE, NEW JERSEY 08648

Corporate Guarantee for Closure or Post-Closure Care

Guarantee made this July 2, 1982 by Lenox, Incorporated, a business corporation organized under the laws of the State of New Jersey, herein referred to as guarantor, to the United States Environmental Protection Agency (EPA), obligee, on behalf of our wholly owned subsidiary Lenox China, Incorporated, of Tilton Road, Pomona, New Jersey 08240.

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in 40 CFR 264.143(f), 264.145(f), 265,143(e), and 265,145(e).

2. Lenox China owns or operates the following hazardous waste management facility covered by this guarantee:

EPA #NJ02325074  
Lenox China, Incorporated  
Tilton Road  
Pomona, NJ 08240

This guarantee is for closure and post-closure care.

3. "Closure plans" and "post-closure plans" as used below refer to the plans maintained as required by Subpart G of 40 CFR Parts 264 and 265 for the closure and post-closure care of the facility identified above.

4. For value received from Lenox China, guarantor guarantees to EPA that in the event that Lenox China fails to perform "closure and post-closure care" of the above facility in accordance with the closure

or post-closure plans and other permit or interim status requirements whenever required to do so, the guarantor shall do so or establish a trust fund as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, in the name of Lenox China in the amount of the current closure or post-closure cost estimates as specified in Subpart H of 40 CFR Parts 264 and 265.

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the EPA Regional Administrator for the Region in which the facility is located and to Lenox China that he intends to provide alternate financial assurance as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, in the name of Lenox China. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless Lenox China has done so.

6. The guarantor agrees to notify the EPA Regional Administrator by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

7. Guarantor agrees that within 30 days after being notified by an EPA Regional Administrator of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, in the name of Lenox China unless Lenox China has done so.

8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure or post-closure plan, amendment or modification of the permit, the extension or reduction of the time of performance of closure or post-closure, or any other modification or alteration of an obligation of the owner or operator pursuant to 40 CFR Parts 264 and 265.

9. Guarantor agrees to remain bound under this guarantee for so long as Lenox China must comply with the applicable financial assurance requirements of Subpart H of 40 CFR Parts 264 and 265 for the above-listed facility, except that guarantor may cancel this guarantee by sending notice by certified mail to the EPA Regional Administrator for the Region in which the facility is located and to Lenox China, such cancellation to become effective no earlier than 120 days after receipt of such notice by both EPA and Lenox China, as evidenced by the return receipts.

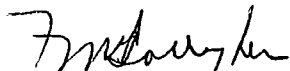
10. Guarantor agrees that if Lenox China fails to provide alternate financial assurance as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, and obtain written approval of such assurance from the EPA Regional Administrator within 90 days after a notice of cancellation by the guarantor is received by an EPA Regional Administrator from guarantor, guarantor shall provide such alternate financial assurance in the name of Lenox China.

11. Guarantor expressly waives notice of acceptance of this guarantee by the EPA or by Lenox China. Guarantor also expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit.

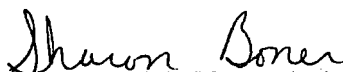
I hereby certify that the wording of this guarantee is identical to the wording specified in 40 CFR 264.151(h) as such regulations were constituted on the date first above written.

Effective date: July 2, 1982

Lenox, Incorporated



F. Michael Gallagher  
Vice President - Finance



Witness/ Sharon Boner

# James

Simon/Regina

26

FRED S. JAMES & CO., INC. OF PENNSYLVANIA Public Ledger Building, Philadelphia, PA 19106 215 928-4600 Telex 834414

NJD 002325074

CEB - January 12, 1983

Mr. Richard Dewling  
Environmental Protection Agency  
Room 1009  
26 Federal Plaza  
New York, NY 10007

Subject: Lenox, Inc.

Dear Mr. Dewling:

Acting on behalf of Lenox, Inc., Environmental Impairment Liability has been bound effective January 11, 1983 for a one year term. The carrier underwriting this account is The Employers of Wausau, policy #222408043430.

Attached please find certified Memorandum of Insurance outlining limits and deductible provisions. Unfortunately the Certificate of Insurance will not be issued by January 15, 1983 as previously required. We expect to receive this item well within thirty days of inception. Upon receipt, it will be forwarded immediately.

Should you have any questions, please feel free to call at any time.

Very truly yours,

  
David Henkels  
Account Manager

DH:pg

encls.

cc: William Clark - Lenox, Inc.  
Robert Beling - Fred S. James & Co.  
*Bill Shrimp - Region III*

GRANTS ADMINISTRATION  
BRANCH  
REGION II  
JAN 21 3 39 PM '83  
ENVIRONMENTAL PROTECTION  
AGENCY  
NEW YORK, N.Y.

AIR & WASTE MANAGEMENT  
DIVISION

JAN 19 4 54 PM '83

U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
REGION II  
NEW YORK, N.Y.

REGION II  
CORRESPONDENCE CONTROL

JAN 18 2 36 PM '83  
NEW YORK, N.Y.

ENVIRONMENTAL PROTECTION  
AGENCY  
NEW YORK, N.Y.

MEMORANDUM OF INSURANCE

effected through

FRED. S. JAMES & CO., INC., OF PENNSYLVANIA

PUBLIC LEDGER BUILDING • PHILADELPHIA, PENNSYLVANIA 19106 • (215) 928-4600

NAME OF INSURED - Lenox China, Inc.

ADDRESS - Tilton Road  
Pomona, New Jersey

PROPERTY OR SUBJECT OF INSURANCE -

KIND OF INSURANCE - Environmental Impairment Liability

AMOUNT OR LIMITS - See Below

EFFECTIVE DATE - 1/12/83

TERM - 1 year

PREMIUM - 30,000.00

PARTICULARS OF INSURANCE - \$20,000,000/\$40,000,000 Occurrence and Aggregate  
\$100,000 Deductible  
Insurance Services Offices Form

INSURER(S) - Employers Of Wausau  
#222408043430

This certifies this is a true and  
correct copy, signed the 12th  
day of January, 1983

*Francis R. Benjamin*

NOTARY PUBLIC

SUBJECT TO ALL TERMS AND CONDITIONS OF THE POLICY TO  
WHICH THIS MEMORANDUM IS ATTACHED. WHICH, WHEN DELIVERED, REPLACES THIS MEMORANDUM

FRED. S. JAMES & CO., INC.  
of Pennsylvania

*[Signature]*  
SIGNATURE

COMMONWEALTH OF PENNA.

500-1/80 COUNTY OF PHILADELPHIA

## 1. POLLUTION LIABILITY COVERAGE

Coverage is provided on a claims-made basis for "bodily injury," "property damage," and "environmental damage" caused by "pollution incidents" which issue from the "insured site" and commence subsequent to a retroactive date to be shown in the declarations. The following defined terms should be especially noted:

- a. "property damage" has been defined to include physical injury or contamination of tangible property including loss of use thereof at any time resulting therefrom, or loss of use of tangible property which has not been physically injured or contaminated but has been evacuated, withdrawn from use or rendered inaccessible because of a pollution incident;
- b. "clean-up costs," as defined, will be reimbursed to the insured for covered "environmental damage," which means the injurious presence of pollutants in the environment;
- c. the definition of "pollution incident" restricts coverage to direct emissions from the insured site which cause damage to the environment;
- d. "insured site" means a specific location to be entered on the declarations and may be broadly or narrowly delineated by the underwriter, depending on assessment of the hazard, to embrace (for example) a tank, a storage area, a dumpsite, an entire industrial location, et al. It also includes external sites owned and operated by others and used by the insured for the storage, disposal, processing, or treatment of waste materials, thereby providing direct coverage to the insured for liability arising out of their pollutants, even if they have been consigned or delivered to others for storage, disposal, processing, or treatment.

There is a 15-day grace period for reporting claims made before the end of the policy period, and a provision grouping all claims because of injury to a single person resulting from a single incident. Claims for injuries to more than one person are not grouped across policy periods. There are incident and aggregate limits (see below).

There is a contractual guarantee that an "extended reporting period" of one year will be available to the insured, at a specified maximum price, in the event of cancelation or nonrenewal by the company (except for nonpayment of premium). Claims made and reported during that period (or "tail") will be considered as being made and reported during the policy period.

Defense is provided apart from the policy limits.

Reimbursement coverage is provided for clean-up costs due to covered "environmental damage." This applies to costs incurred because of legal obligation, or voluntarily with the prior consent of the insurance company.



## 2. EXCLUSIONS

Many of the exclusions contained in other liability coverage parts have been utilized and extended, where appropriate, to "environmental damage." Notable nonstandard provisions are:

- a. exclusion (a), which restricts coverage to fortuitous injury or damage in the same way as the definition of "occurrence" in the current liability coverage parts;
- b. exclusion (e), the "care, custody, or control" exclusion, which has been extended to the insured site and eliminates, among other things, coverage for clean-up costs on sites owned, operated, or used by the insured;
- c. exclusion (h) for offshore facilities subject to special laws;
- d. exclusion (i), eliminating coverage for waste treatment of disposal sites which are closed in accordance with the EPA definitions or otherwise and must be treated under separate, special insuring agreements;
- e. exclusion (k) for gas, oil, and other wells, which are the subject of special insurance;
- f. exclusion (l) for liability, other than vicarious liability, due to intentional violation of statute or regulation;
- g. exclusion (m) for the consequences of acid rain;
- h. exclusion (n) for environmental damage outside the policy territory.

## 3. SUPPLEMENTARY PAYMENTS

These are essentially the provisions of other general liability coverage parts.

## 4. PERSONS INSURED

This provision is the same as other general liability coverage parts, without the omnibus persons insured clause for operators of mobile equipment or the extension of coverage to real estate managers, which are not required for pollution coverage. It is extended to employees of the named insured with appropriate limitations as in the current "Additional Insured (Employees)" G106 endorsement.

## 5. LIMITS OF LIABILITY

The company's liability for clean-up costs and damages combined is subject to an aggregate limit, an incident limit, and a deductible which impairs the incident limit.

## 6. POLICY TERRITORY

Coverage applies only if the pollution incident issues from an insured site in the U.S., its territories or possessions, Puerto Rico, or Canada, and only if original suit for damages because of bodily injury or property damage is brought within these territories.

## 7. DEFINITIONS

Except for the special definitions described above under "Pollution Liability Coverage," these are the definitions used in our other general liability coverage parts, extended where necessary to "environmental damage."

## 8. CONDITIONS

These are essentially the conditions of the general liability coverage parts, except for the "Assistance and Cooperation" condition, which replaces the "Insured's Duties" condition and has been expanded in view of the coverage to obligate the insured to inform the company of actions or proceedings which may result in the imposition of clean-up costs, and to cooperate in the conduct of any such proceedings. A "Sole Agent" condition has also been included to impose special rights and duties on the first named insured.

This policy will be written through EMPLOYERS INSURANCE OF WAUSAU A Mutual Company and Illinois Employers Insurance of Wausau. The policy will be added to the Specimen Manual in the near future.

This policy is effective 10-13-81 in the following states:

Alabama	Illinois	Ohio
Alaska	Indiana	Oklahoma
Arizona	Kentucky	Oregon
California	Louisiana	Rhode Island
Colorado	Maine	South Carolina
Delaware	Missouri	South Dakota
District of Columbia	Montana	Tennessee
Florida	Nevada	Utah
Idaho	New Mexico	West Virginia

You will be advised as further states approve this policy.

Dick Rice  
Commercial Casualty Marketing  
HO 20

Dist.: 6-7-11-15-16-19-26-27-29-30-31-34-37-40-41-42-45;  
R7-R10-R11-R15-R16-R17-R21-R22-R23-R25-R31-R32-R33-R37-R38-R39-  
R40-R41-R44-R45-R46-R47-R48-R50-R51-R52-R53

# Wausau Insurance Companies

## POLLUTION LIABILITY INSURANCE

or, for any reason, the company  
cancels or refuses to

- (1) by giving written notice to the company on or before the effective date of the cancellation, or no later than ten days after the effective date of non-renewal; and
- (2) by paying promptly when due an additional premium not more than 50% of the annual premium development of this policy.

have an endorsement issued providing an extended coverage period of one year following the effective date of the



THIS POLICY IS NONASSESSABLE

When used in this policy (including endorsement)

### THIS IS A CLAIMS MADE POLICY — PLEASE READ CAREFULLY

**MUTUALS-MEMBERSHIP AND VOTING NOTICE:** The insured is notified that by virtue of this policy, he is a member of the EMPLOYERS INSURANCE OF WAUSAU A Mutual Company, and is entitled to vote either in person or by proxy at any and all meetings of said company. The annual Meetings are held at its home office at Wausau, Wisconsin, on the fourth Friday of May, in each year, at 9:00 A.M.

## EMPLOYERS INSURANCE OF WAUSAU A Mutual Company

HOME OFFICE: WAUSAU, WISCONSIN

(Herein called the company)

In consideration of the payment of the premium, in reliance upon the statements in the declarations made a part hereof, and subject to all terms of this policy, the company agrees with the **named insured** as follows:

### I. POLLUTION LIABILITY COVERAGE

A. The company will pay on behalf of the **insured** all sums which the **insured** shall become legally obligated to pay as compensatory damages because of **bodily injury** or **property damage** to which this insurance applies, provided that:

- (1) such **bodily injury** or **property damage** is caused by a **pollution incident** which commences subsequent to the retroactive date shown in the declarations of this policy; and
- (2) the claim for such damages is first made against the **insured** during the policy period and reported to the company during the policy period or within fifteen days after its termination.

A claim shall be deemed to have been made only when suit is brought or written notice of such claim is received by either the **insured** or the company.

All claims for damages because of **bodily injury** or **property damage** sustained by any one person or organization as a result of any one **pollution incident** shall be deemed to have been made at the time the first of those claims is made.

The company shall have the right and duty to defend any suit against the **insured** seeking damages on account of such **bodily injury** or **property damage**, even if any of the allegations of the suit are groundless, false, or fraudulent. The company may make such investigation and settlement of any claim or suit as it deems expedient. The company shall not be obligated to pay any claim or judgment or to defend any suit after the applicable limit of the company's liability has been exhausted

by payment of judgments or settlements.

B. The company will reimburse the **insured** for reasonable and necessary **clean-up costs** incurred by the **insured** in the discharge of a legal obligation validly imposed through governmental action which is initiated during the policy period, provided that:

- (1) such **clean-up costs** are incurred because of **environmental damage** to which this insurance applies; and
- (2) the **environmental damage** is caused by a **pollution incident** which commences subsequent to the retroactive date shown in the declarations of this policy.

The company shall have the right, but not the duty, to participate at its expense in any proceeding seeking to impose legal obligations because of such **environmental damage**.

The company will also reimburse the **insured** for other **clean-up costs** which the **insured** incurs, provided that:

- (1) the **clean-up costs** are reasonable and necessary; and
- (2) during the policy period, the company grants the **insured** prior written consent to undertake the clean-up. The company will grant its consent when, in its sole discretion, a **pollution incident** which commences subsequent to the retroactive date shown in the declarations of this policy or the threat of a **pollution incident** presents an imminent and substantial danger of **bodily injury, property damage, or environmental damage** to which this insurance applies.

#### IV. POLICY TERRITORY

This insurance applies only to **bodily injury, property damage, or environmental damage** caused by a **pollution incident** emanating from an **insured site** in the United States of America, its ter-

ritories or possessions, Puerto Rico, or Canada, but not to any such **bodily injury** or **property damage** for which original suit for damages is brought elsewhere.

#### V. EXTENDED REPORTING PERIOD OPTION

If, for any reason other than non-payment of premium, the company cancels or refuses to renew this policy, the **named insured** may:

- (1) by giving written notice to the company on or before the effective date of the cancellation, or no later than ten days after the effective date of non-renewal; and
- (2) by paying promptly when due an additional premium of not more than 50% of the annual premium developed under this policy,

have an endorsement issued providing an extended reporting period of one year following the effective date of the cancellation

or non-renewal. Any claims for damages because of **bodily injury** or **property damage** first made against the **insured** and reported to the company during that extended reporting period shall be deemed to be so made and reported during the policy period, but only if the **bodily injury** or **property damage** occurred prior to the effective date of the cancellation or non-renewal. All other provisions of this policy, including those relating to the company's limit of liability, shall be unchanged by this provision.

For the purpose of this provision, failure of the company to offer to renew this policy at the same rates or with the same form shall not constitute cancellation or non-renewal by the company.

#### VI. DEFINITIONS

When used in this policy (including endorsements forming a part hereof):

**"automobile"** means a land motor vehicle, trailer, or semitrailer designed for travel on public roads (including any machinery or apparatus attached thereto), but does not include **mobile equipment**;

**"bodily injury"** means bodily injury, sickness, or disease sustained by any person, including death at any time resulting therefrom;

**"clean-up costs"** means expenses for the removal or neutralization of contaminants, irritants, or pollutants;

**"completed operations hazard"** includes **bodily injury, property damage, and environmental damage** arising out of operations or reliance upon a representation or warranty made at any time with respect thereto, but only if the **bodily injury, property damage, or environmental damage** occurs after such operations have been completed or abandoned and occurs away from premises owned by or rented to the **named insured**. **"Operations"** include materials, parts, or equipment furnished in connection therewith. Operations shall be deemed completed at the earliest of the following times:

- (1) when all operations to be performed by or on behalf of the **named insured** under the contract have been completed, or
- (2) when all operations to be performed by or on behalf of the **named insured** at the site of the operations have been completed, or
- (3) when the portion of the work out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

Operations which may require further service or maintenance work, or correction, repair, or replacement because of any defect or deficiency, but which are otherwise complete, shall be deemed completed.

The completed operations hazard does not include **bodily injury, property damage, or environmental damage** arising out of:

- (1) operations in connection with the transportation of property unless the **bodily injury, property damage, or environmental damage** arises out of a condition in or on a vehicle created by the loading or unloading thereof, or
- (2) the existence of tools, uninstalled equipment, or abandoned or unused materials;

**"environmental damage"** means the injurious presence in or upon land, the atmosphere, or any watercourse or body of water of solid, liquid, gaseous, or thermal contaminants, irritants, or pollutants;

**"insured"** means any person or organization qualifying as an insured in the "Persons Insured" provision of this policy. The insurance afforded applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the company's liability;

**"insured site"** means

- (1) the specific location or part thereof specified as such in the declarations of this policy, or
- (2) any site to which waste materials were legally consigned or delivered by a **named insured** for storage, disposal, processing, or treatment, provided that the site
  - (a) is not and was never owned by, operated by, rented or loaned to a **named insured**; and
  - (b) was duly authorized for such storage, disposal, processing, or treatment under a permit issued by state or federal authority and in force at the time of all such consignment or delivery.

The coverage with respect to an "insured site" under part (2) of this definition shall be excess insurance over any other valid and collectible insurance available to the **insured**;

**"mobile equipment"** means a land vehicle (including any machinery or apparatus attached thereto), whether or not self propelled, (1) not subject to motor vehicle registration, or (2) maintained for use exclusively on premises owned by or rented to the **named insured**, including the ways immediately adjoining, or (3) designed for use principally off public roads, or (4) designed or maintained for the sole purpose of affording mobility to equipment of the following types forming an integral part of or permanently attached to such vehicle: power cranes, shovels, loaders, diggers, and drills; concrete mixers (other than the mix-in-transit type); graders, scrapers, rollers, and other road construction or repair equipment; air-compressors, pumps, and generators, including spraying, welding, and building cleaning equipment; and geophysical exploration and well servicing equipment;

**"named insured"** means the person or organization named in Item I of the declarations of this policy;

**"named insured's products"** means goods or products manufactured, sold, handled, or distributed by the **named insured** or by others trading under his name, including any container therefor (other than a vehicle); but "named insured's products" shall not include a vending machine or any property other than such container rented to or located for use of others but not sold;

**"pollution incident"** means emission, discharge, release, or escape of any solid, liquid, gaseous, or thermal contaminants, irritants, or pollutants directly from the **insured site** into or upon land, the

atmosphere, or any watercourse or body of water, provided that such emission, discharge, release, or escape results in **environmental damage**. The entirety of any sudden or gradual emission, discharge, release, or escape from an **insured site** shall be deemed to be one "pollution incident";

"**products hazard**" includes **bodily injury, property damage, and environmental damage** arising out of the **named insured's products** or reliance upon representation or warranty made at any time with respect thereto, but only if the **bodily injury, property damage, or**

**environmental damage** occurs away from premises owned by or rented to the **named insured** and after physical possession of such products has been relinquished to others;

"**property damage**" means (1) physical injury to, destruction of, or contamination of tangible property, including the loss of use thereof at any time resulting therefrom, or (2) loss of use of tangible property which has not been physically injured, destroyed, or contaminated but has been evacuated, withdrawn from use, or rendered inaccessible because of a **pollution incident**.

## VII. CONDITIONS

**1. Premium** All premiums for this policy shall be computed in accordance with the company's rules, rates, rating plans, premiums, and minimum premiums applicable to the insurance afforded herein.

Premium designated in this policy as "advance premium" is a deposit premium only which shall be credited to the amount of the earned premium due at the end of the policy period. At the end of each period (or part thereof terminating with the end of the policy period) designated in the declarations as the audit period, the earned premium shall be computed for such period and, upon notice thereof to the **named insured**, shall become due and payable. If the total earned premium for the policy period is less than the premium previously paid, the company shall return to the **named insured** the unearned portion paid by the **named insured**.

The **named insured** shall maintain records of such information as is necessary for premium computation, and shall send copies of such records to the company at the end of the policy period and at such times during the policy period as the company may direct.

**2. Inspection and Audit** The company shall be permitted but not obligated to inspect the **named insured's** property and operations at any time. Neither the company's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the **named insured** or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule, or regulation.

The company may examine and audit the **named insured's** books and records at any time during the policy period and extensions thereof and within three years after the final termination of this policy, as far as they relate to the subject matter of this insurance.

**3. Assistance and Cooperation of Insured** The **insured** shall give written notice to the company as soon as practicable of:

- (1) any claim made against the **insured**; or
- (2) any action or proceeding to impose an obligation on the **insured** for **clean-up costs**.

The notice shall identify the **insured** and contain reasonably obtainable information with respect to the time, place, circumstances, and nature of the incident, injury, or damage, including the names and addresses of any persons or organizations sustaining injury or damage and of available witnesses. If a claim is made, a suit is brought, or an action is initiated against the **insured**, the **insured** shall immediately forward to the company every demand, notice, summons, or other process received by the **insured** or the **insured's** representatives.

The **insured** and each of its employees shall cooperate with the company and, upon the company's request, assist in (a) making settlements, (b) the conduct of suits or proceedings, and (c) enforcing any right of contribution or indemnity against any person or organization who may be liable to the **insured** because of injury or damage with respect to which insurance is afforded under this policy; and the **insured** and any of its members, partners, officers, directors, administrators, stockholders, and employees that the company deems necessary, shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance

of witnesses. The **insured** shall not, except at the **insured's** own cost, voluntarily make any payment, assume any obligation, or incur any expense.

**4. Action Against Company** No action shall lie against the company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, nor until the amount of the **insured's** obligation to pay shall have been finally determined either by judgment against the **insured** after actual trial or by written agreement of the **insured**, the claimant, and the company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the company as a party to any action against the **insured** to determine the **insured's** liability, nor shall the company be impleaded by the **insured** or his legal representative. Bankruptcy or insolvency of the **insured** or of the **insured's** estate shall not relieve the company of any of its obligations hereunder.

**5. Other Insurance** The insurance afforded by this policy is primary insurance, except when stated to apply in excess of or contingent upon the absence of other insurance. When this insurance is primary and the **insured** has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of the company's liability under this policy shall not be reduced by the existence of such other insurance.

When both this insurance and other insurance apply to the loss on the same basis, whether primary, excess, or contingent, the company shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

- (a) **Contribution by Equal Shares.** If all of such other valid and collectible insurance provides for contribution by equal shares, the company shall not be liable for a greater proportion of such loss than would be payable if each insurer contributes an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid; and, with respect to any amount of loss not so paid, the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.
- (b) **Contribution by Limits.** If any of such other insurance does not provide for contribution by equal shares, the company shall not be liable for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

**6. Subrogation** In the event of any payment under this policy, the company shall be subrogated to all the **insured's** rights of recovery therefor against any person or organization and the **insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **insured** shall do nothing after loss to prejudice such rights.

## EXCLUSIONS

This insurance does not apply:

- (a) to **bodily injury, property damage, or environmental damage** which is expected or intended from the standpoint of the **insured**;
- (b) to liability assumed by the **insured** under any contract or agreement, but this exclusion does not apply to liability that the **insured** would have in the absence of such contract or agreement;
- (c) to any obligation for which the **insured** or any carrier as his insurer may be held liable under any workers' compensation, unemployment compensation, or disability benefits law, or under any similar law;
- (d) to **bodily injury** to any employee of the **insured** arising out of and in the course of his employment by the **insured** or to any obligation of the **insured** to indemnify another because of damages arising out of such injury;
- (e) to **property damage or environmental damage** to
  - (1) an **insured site**, or
  - (2) property owned or occupied by or rented to the **insured**, or
  - (3) property used by the **insured**, or
  - (4) property in the care, custody, or control of the **insured** or as to which the **insured** is for any purpose exercising physical control;
- (f) to **property damage or environmental damage** to premises alienated by the **named insured** arising out of such premises or any part thereof;
- (g) to **bodily injury, property damage, or environmental damage** included within the **completed operations hazard** or the **products hazard**, and arising out of an emission, discharge, release, or escape which takes place away from any **insured site** owned by, rented or loaned to a **named insured**;
- (h) to **bodily injury, property damage, or environmental damage** arising out of the ownership or operation of any "offshore facility" as defined in the Outer Continental Shelf Lands Act Amendment of 1978 or the Clean Water Act of 1977 as amended 1978, or any "deepwater port" as defined in the Deepwater Port Act of 1974, as amended or as may be amended;
- (i) to **bodily injury, property damage, or environmental damage** arising out of any **pollution incident** emanating from a site used for the storage, disposal, processing, or treatment of any waste material, if the **pollution incident** occurs after the site is no longer in active use because of sealing off, abandonment, alienation, or closure, whether or not in compliance with the requirements of any statute, regulation, ordinance, directive, or order promulgated by any governmental body;
- (j) to **bodily injury, property damage, or environmental damage** arising out of the ownership, maintenance, operation, use, loading, or unloading of
  - (1) any aircraft, **automobile**, rolling stock, or watercraft owned or operated by or rented or loaned to any **insured**, or
  - (2) any other aircraft, **automobile**, rolling stock, or watercraft operated by any person in the course of employment by any **insured**;
- (k) to **bodily injury, property damage, or environmental damage** arising out of the emission, discharge, release, or escape of drilling fluid, oil, gas, or other fluids from any oil, gas, mineral, water, or geothermal well;
- (l) to **bodily injury, property damage, or environmental damage** arising out of a **pollution incident** which results from or is directly or indirectly attributable to failure to comply with any

applicable statute, regulation, ordinance, directive, or order relating to the protection of the environment and promulgated by any governmental body, provided that failure to comply is a willful or deliberate act or omission of

(1) the **insured**, or

(2) any **named insured**, or any member, partner, or executive officer thereof;

(m) to **bodily injury, property damage, or environmental damage** arising out of acid rain;

(n) to **environmental damage** outside the United States of America, its territories or possessions, Puerto Rico, or Canada;

(o) 1. to **bodily injury, property damage, or environmental damage**

(a) with respect to which an **insured** under the policy is also an **insured** under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, or Nuclear Insurance Association of Canada, or would be an **insured** under any such policy but for its termination upon exhaustion of its limit of liability; or

(b) resulting from the **hazardous properties of nuclear material** and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the **insured** is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization;

2. under the Supplementary Payments provision relating to first aid, to expenses incurred with respect to **bodily injury** resulting from the **hazardous properties of nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization;

3. to **bodily injury, property damage, or environmental damage** resulting from the **hazardous properties of nuclear material**, if

(a) the **nuclear material** (1) is at any **nuclear facility** owned by, or operated by or on behalf of, an **insured** or (2) has been discharged or dispersed therefrom;

(b) the **nuclear material** is contained in **spent fuel** or **waste** at any time possessed, handled, used, processed, stored, transported, or disposed of by or on behalf of an **insured**; or

(c) the **bodily injury, property damage, or environmental damage** arises out of the furnishing by an **insured** of services, materials, parts, or equipment in connection with the planning, construction, maintenance, operation, or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions, or Canada, this exclusion (c) applies only to **property damage** to such **nuclear facility** and any property thereat.

As used in this exclusion:

"**hazardous properties**" include radioactive, toxic, or explosive properties;

"**nuclear material**" means **source material, special nuclear material, or byproduct material**;

"**source material**," "**special nuclear material**," and "**byproduct material**" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"**spent fuel**" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**;

"**waste**" means any waste material (a) containing by-product material other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any one processed primarily for its **source material** content, and (b) resulting from the operation by any person or organization of any **nuclear facility** included under the first two paragraphs of the definition of **nuclear facility**;

"**nuclear facility**" means

- (a) any **nuclear reactor**,
- (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing **spent fuel**, or (3) handling, processing, or packaging **waste**,
- (c) any equipment or device used for the processing, fabricating,

or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the **insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

- (d) any structure, basin, excavation, premises, or place prepared or used for the storage or disposal of **waste**,

and includes the site on which any of the foregoing is located, all operations conducted on such site, and all premises used for such operations;

"**nuclear reactor**" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"**property damage**" includes all forms of radioactive contamination of property.

### SUPPLEMENTARY PAYMENTS

The company will pay, in addition to the applicable limit of liability:

- (a) all expenses incurred by the company, all costs taxed against the **insured** in any suit defended by the company, and all interest on the entire amount of any judgment therein which accrues after entry of the judgment and before the company has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of the company's liability thereon;
- (b) premiums on appeal bonds required in any such suit and premiums on bonds to release attachments in any such suit for

an amount not in excess of the applicable limit of liability of this policy, but the company shall have no obligation to apply for or furnish any such bonds;

- (c) expenses incurred by the **insured** for first aid to others at the time of any accident, for **bodily injury** to which this policy applies;
- (d) reasonable expenses incurred by the **insured** at the company's request in assisting the company in the investigation or defense of any claim or suit, including actual loss of earnings not to exceed \$25 per day.

### II. PERSONS INSURED

Each of the following is an **insured** under this policy to the extent set forth below:

- (a) if the **named insured** is designated in the declarations as an individual, the person so designated, but only with respect to the conduct of a business of which he is the sole proprietor, and the spouse of the **named insured** with respect to the conduct of such a business;
- (b) if the **named insured** is designated in the declarations as a partnership or joint venture, the partnership or joint venture so designated and any partner or member thereof, but only with respect to his liability as such;
- (c) if the **named insured** is designated in the declarations as other than an individual, partnership, or joint venture, the organization so designated and any executive officer, director, or stockholder thereof while acting within the scope of his duties as such;
- (d) any employee of the **named insured**, other than an executive

officer, while acting within the scope of his duties as such, but the insurance afforded to such employee does not apply:

- (1) to **bodily injury** to (a) another employee of the **named insured** arising out of or in the course of his employment, or (b) the **named insured**, or, if the **named insured** is a partnership or joint venture, any partner or member thereof;
- (2) to **property damage** or **environmental damage** to property owned, occupied or used by, rented to, in the care, custody, or control of, or over which physical control is being exercised for any purpose by (a) another employee of the **named insured** or (b) the **named insured**, or, if the **named insured** is a partnership or joint venture, any partner or member thereof.

This insurance does not apply to **bodily injury**, **property damage**, or **environmental damage** arising out of the conduct of any partnership or joint venture of which the **insured** is or was a partner or member and which is not designated in this policy as a **named insured**.

### III. LIMITS OF LIABILITY AND DEDUCTIBLE PROVISIONS

Regardless of the number of **insureds** under this policy, the number of claims made or suits brought, or the amount of **clean-up costs** incurred, the company's liability is limited as follows:

- (a) The total liability of the company for all damages because of all **bodily injury** and **property damage** to which this insurance applies and all **clean-up costs** incurred because of all **environmental damage** to which this insurance applies shall not exceed the limit of liability stated in the declarations as "aggregate."
- (b) Subject to the above provision with respect to "aggregate," the total liability of the company in any one **pollution incident** for all damages because of all **bodily injury** and **property dam-**

**age** and all **clean-up costs** incurred because of all **environmental damage** shall not exceed the lesser of:

- (1) the limit of liability stated in the declarations as "each **pollution incident**" reduced by the deductible amount, if any, shown therein, or
- (2) the combined amount of such damages and **clean-up costs** in excess of any such deductible amount.

The company may, or will if required by law, pay part or all of the deductible amount to effect settlement of any claim or suit; and upon notification of the action taken, the **named insured** shall promptly reimburse the company for such part of the deductible amount as has been paid by the company.

**7. Changes** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the company from asserting any right under the terms of this policy, nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy.

**8. Assignment** Assignment of interest under this policy shall not bind the company until its consent is endorsed hereon; if, however, the **named insured** shall die, such insurance as is afforded by this policy shall apply (1) to the **named insured's** legal representative, as the **named insured**, but only while acting within the scope of his duties as such, and (2) with respect to the property of the **named insured**, to the person having proper temporary custody thereof, as **insured**, but only until the appointment and qualification of the legal representative.

**9. Cancellation** This policy may be cancelled by the **named insured** by mailing to the company written notice stating when thereafter the cancellation shall be effective. This policy may be cancelled by the company by mailing to the **named insured**, at the address shown in this policy, written notice stating when not less than thirty days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice.

The effective date of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the **named insured** or by the company shall be equivalent to mailing.

If this policy is issued to comply with any law or regulation which requires notice of cancellation to any governmental body, cancel-

lation may not be effected until the required notice has been provided by the **named insured** or the company.

If the company cancels, earned premium shall be computed pro rata. If the **named insured** cancels, the earned premium shall be the pro rata earned premium plus 10% of the pro rata unearned premium. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

**10. Declarations** By acceptance of this policy, the **named insured** agrees that the statements in the declarations are his agreements and representations, that this policy is issued in reliance upon the truth of such representations, and that this policy embodies all agreements existing between himself and the company or any of its agents relating to this insurance.

**11. Sole Agent** The **insured** first named in Item 1 of the declarations shall act on behalf of all **insureds** with respect to giving and receiving notice of cancellation, accepting any endorsement issued to form a part of this policy, and receiving return premium, if any; and is charged with the responsibility for notifying the company of any changes of members, partners, officers, directors, stockholders, or employees or any other change which might affect the insurance hereunder.

**12. Mutual Policy Conditions** PARTICIPATION CLAUSE WITHOUT CONTINGENT LIABILITY. No Contingent Liability: This policy is non-assessable. The policyholder is a member of the company and shall participate, to the extent and upon the conditions fixed and determined by the Board of Directors in accordance with the provisions of law, in the distribution of dividends so fixed and determined.

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IN WITNESS WHEREOF, the EMPLOYERS INSURANCE OF WAUSAU A Mutual Company has caused this policy to be signed by its president and secretary at Wausau, Wisconsin, and countersigned on the declarations page by a duly authorized representative of the company.

*R. J. Wendorff*  
Secretary

*Gerald D. Viste*  
President



# Wausau Insurance Companies

## POLLUTION LIABILITY INSURANCE

...for any reason...  
cancels or refuses to

(1) by giving written notice to the company on or before the effective date of the cancellation, or no later than ten days after the effective date of non-renewal; and

(2) by paying promptly when due an additional premium not more than 50% of the annual premium for this policy.

have an endorsement issued providing an extended period of one year following the effective date of the



When used in this policy (including endorsement)

THIS POLICY IS NONASSESSABLE

### THIS IS A CLAIMS MADE POLICY — PLEASE READ CAREFULLY

**MUTUALS-MEMBERSHIP AND VOTING NOTICE:** The insured is notified that by virtue of this policy, he is a member of the EMPLOYERS INSURANCE OF WAUSAU A Mutual Company, and is entitled to vote either in person or by proxy at any and all meetings of said company. The annual Meetings are held at its home office at Wausau, Wisconsin, on the fourth Friday of May, in each year, at 9:00 A.M.

## EMPLOYERS INSURANCE OF WAUSAU A Mutual Company

HOME OFFICE: WAUSAU, WISCONSIN

(Herein called the company)

In consideration of the payment of the premium, in reliance upon the statements in the declarations made a part hereof, and subject to all terms of this policy, the company agrees with the named insured as follows:

### I. POLLUTION LIABILITY COVERAGE

A. The company will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as compensatory damages because of **bodily injury** or **property damage** to which this insurance applies, provided that:

(1) such **bodily injury** or **property damage** is caused by a **pollution incident** which commences subsequent to the retroactive date shown in the declarations of this policy; and

(2) the claim for such damages is first made against the insured during the policy period and reported to the company during the policy period or within fifteen days after its termination.

A claim shall be deemed to have been made only when suit is brought or written notice of such claim is received by either the insured or the company.

All claims for damages because of **bodily injury** or **property damage** sustained by any one person or organization as a result of any one **pollution incident** shall be deemed to have been made at the time the first of those claims is made.

The company shall have the right and duty to defend any suit against the insured seeking damages on account of such **bodily injury** or **property damage**, even if any of the allegations of the suit are groundless, false, or fraudulent. The company may make such investigation and settlement of any claim or suit as it deems expedient. The company shall not be obligated to pay any claim or judgment or to defend any suit after the applicable limit of the company's liability has been exhausted

by payment of judgments or settlements.

B. The company will reimburse the insured for reasonable and necessary **clean-up costs** incurred by the insured in the discharge of a legal obligation validly imposed through governmental action which is initiated during the policy period, provided that:

(1) such **clean-up costs** are incurred because of **environmental damage** to which this insurance applies; and

(2) the **environmental damage** is caused by a **pollution incident** which commences subsequent to the retroactive date shown in the declarations of this policy.

The company shall have the right, but not the duty, to participate at its expense in any proceeding seeking to impose legal obligations because of such **environmental damage**.

The company will also reimburse the insured for other **clean-up costs** which the insured incurs, provided that:

(1) the **clean-up costs** are reasonable and necessary; and

(2) during the policy period, the company grants the insured prior written consent to undertake the clean-up. The company will grant its consent when, in its sole discretion, a **pollution incident** which commences subsequent to the retroactive date shown in the declarations of this policy or the threat of a **pollution incident** presents an imminent and substantial danger of **bodily injury**, **property damage**, or **environmental damage** to which this insurance applies.

#### IV. POLICY TERRITORY

This insurance applies only to **bodily injury, property damage, or environmental damage** caused by a **pollution incident** emanating from an **insured site** in the United States of America, its ter-

ritories or possessions, Puerto Rico, or Canada, but not to any such **bodily injury or property damage** for which original suit for damages is brought elsewhere.

#### V. EXTENDED REPORTING PERIOD OPTION

If, for any reason other than non-payment of premium, the company cancels or refuses to renew this policy, the **named insured** may:

- (1) by giving written notice to the company on or before the effective date of the cancellation, or no later than ten days after the effective date of non-renewal; and
- (2) by paying promptly when due an additional premium of not more than 50% of the annual premium developed under this policy.

have an endorsement issued providing an extended reporting period of one year following the effective date of the cancellation

or non-renewal. Any claims for damages because of **bodily injury or property damage** first made against the **insured** and reported to the company during that extended reporting period shall be deemed to be so made and reported during the policy period, but only if the **bodily injury or property damage** occurred prior to the effective date of the cancellation or non-renewal. All other provisions of this policy, including those relating to the company's limit of liability, shall be unchanged by this provision.

For the purpose of this provision, failure of the company to offer to renew this policy at the same rates or with the same form shall not constitute cancellation or non-renewal by the company.

#### VI. DEFINITIONS

When used in this policy (including endorsements forming a part hereof):

**"automobile"** means a land motor vehicle, trailer, or semitrailer designed for travel on public roads (including any machinery or apparatus attached thereto), but does not include **mobile equipment**;

**"bodily injury"** means bodily injury, sickness, or disease sustained by any person, including death at any time resulting therefrom;

**"clean-up costs"** means expenses for the removal or neutralization of contaminants, irritants, or pollutants;

**"completed operations hazard"** includes **bodily injury, property damage, and environmental damage** arising out of operations or reliance upon a representation or warranty made at any time with respect thereto, but only if the **bodily injury, property damage, or environmental damage** occurs after such operations have been completed or abandoned and occurs away from premises owned by or rented to the **named insured**. **"Operations"** include materials, parts, or equipment furnished in connection therewith. Operations shall be deemed completed at the earliest of the following times:

- (1) when all operations to be performed by or on behalf of the **named insured** under the contract have been completed, or
- (2) when all operations to be performed by or on behalf of the **named insured** at the site of the operations have been completed, or
- (3) when the portion of the work out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

Operations which may require further service or maintenance work, or correction, repair, or replacement because of any defect or deficiency, but which are otherwise complete, shall be deemed completed.

The completed operations hazard does not include **bodily injury, property damage, or environmental damage** arising out of:

- (1) operations in connection with the transportation of property unless the **bodily injury, property damage, or environmental damage** arises out of a condition in or on a vehicle created by the loading or unloading thereof, or
- (2) the existence of tools, uninstalled equipment, or abandoned or unused materials;

**"environmental damage"** means the injurious presence in or upon land, the atmosphere, or any watercourse or body of water of solid, liquid, gaseous, or thermal contaminants, irritants, or pollutants;

**"insured"** means any person or organization qualifying as an insured in the "Persons Insured" provision of this policy. The insurance afforded applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the company's liability;

**"insured site"** means

- (1) the specific location or part thereof specified as such in the declarations of this policy, or
- (2) any site to which waste materials were legally consigned or delivered by a **named insured** for storage, disposal, processing, or treatment, provided that the site
  - (a) is not and was never owned by, operated by, rented or loaned to a **named insured**; and
  - (b) was duly authorized for such storage, disposal, processing, or treatment under a permit issued by state or federal authority and in force at the time of all such consignment or delivery.

The coverage with respect to an "insured site" under part (2) of this definition shall be excess insurance over any other valid and collectible insurance available to the **insured**;

**"mobile equipment"** means a land vehicle (including any machinery or apparatus attached thereto), whether or not self-propelled, (1) not subject to motor vehicle registration, or (2) maintained for use exclusively on premises owned by or rented to the **named insured**, including the ways immediately adjoining, or (3) designed for use principally off public roads, or (4) designed or maintained for the sole purpose of affording mobility to equipment of the following types forming an integral part of or permanently attached to such vehicle: power cranes, shovels, loaders, diggers, and drills; concrete mixers (other than the mix-in-transit type); graders, scrapers, rollers, and other road construction or repair equipment; air-compressors, pumps, and generators, including spraying, welding, and building cleaning equipment; and geophysical exploration and well servicing equipment;

**"named insured"** means the person or organization named in Item 1 of the declarations of this policy;

**"named insured's products"** means goods or products manufactured, sold, handled, or distributed by the **named insured** or by others trading under his name, including any container therefor (other than a vehicle); but "named insured's products" shall not include a vending machine or any property other than such container rented to or located for use of others but not sold;

**"pollution incident"** means emission, discharge, release, or escape of any solid, liquid, gaseous, or thermal contaminants, irritants, or pollutants directly from the **insured site** into or upon land, the

atmosphere, or any watercourse or body of water, provided that such emission, discharge, release, or escape results in **environmental damage**. The entirety of any sudden or gradual emission, discharge, release, or escape from an insured site shall be deemed to be one "pollution incident";

"**products hazard**" includes **bodily injury**, **property damage**, and **environmental damage** arising out of the named insured's products or reliance upon representation or warranty made at any time with respect thereto, but only if the **bodily injury**, **property damage**, or

**environmental damage** occurs away from premises owned by or rented to the **named insured** and after physical possession of such products has been relinquished to others;

"**property damage**" means (1) physical injury to, destruction of, or contamination of tangible property, including the loss of use thereof at any time resulting therefrom, or (2) loss of use of tangible property which has not been physically injured, destroyed, or contaminated but has been evacuated, withdrawn from use, or rendered inaccessible because of a **pollution incident**.

## VII. CONDITIONS

**1. Premium** All premiums for this policy shall be computed in accordance with the company's rules, rates, rating plans, premiums, and minimum premiums applicable to the insurance afforded herein.

Premium designated in this policy as "advance premium" is a deposit premium only which shall be credited to the amount of the earned premium due at the end of the policy period. At the end of each period (or part thereof terminating with the end of the policy period) designated in the declarations as the audit period, the earned premium shall be computed for such period and, upon notice thereof to the **named insured**, shall become due and payable. If the total earned premium for the policy period is less than the premium previously paid, the company shall return to the **named insured** the unearned portion paid by the **named insured**.

The **named insured** shall maintain records of such information as is necessary for premium computation, and shall send copies of such records to the company at the end of the policy period and at such times during the policy period as the company may direct.

**2. Inspection and Audit** The company shall be permitted but not obligated to inspect the **named insured's** property and operations at any time. Neither the company's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the **named insured** or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule, or regulation.

The company may examine and audit the **named insured's** books and records at any time during the policy period and extensions thereof and within three years after the final termination of this policy, as far as they relate to the subject matter of this insurance.

**3. Assistance and Cooperation of Insured** The **insured** shall give written notice to the company as soon as practicable of:

- (1) any claim made against the **insured**; or
- (2) any action or proceeding to impose an obligation on the **insured** for **clean-up costs**.

The notice shall identify the **insured** and contain reasonably obtainable information with respect to the time, place, circumstances, and nature of the incident, injury, or damage, including the names and addresses of any persons or organizations sustaining injury or damage and of available witnesses. If a claim is made, a suit is brought, or an action is initiated against the **insured**, the **insured** shall immediately forward to the company every demand, notice, summons, or other process received by the **insured** or the **insured's** representatives.

The **insured** and each of its employees shall cooperate with the company and, upon the company's request, assist in (a) making settlements, (b) the conduct of suits or proceedings, and (c) enforcing any right of contribution or indemnity against any person or organization who may be liable to the **insured** because of injury or damage with respect to which insurance is afforded under this policy; and the **insured** and any of its members, partners, officers, directors, administrators, stockholders, and employees that the company deems necessary, shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance

of witnesses. The **insured** shall not, except at the **insured's** own cost, voluntarily make any payment, assume any obligation, or incur any expense.

**4. Action Against Company** No action shall lie against the company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, nor until the amount of the **insured's** obligation to pay shall have been finally determined either by judgment against the **insured** after actual trial or by written agreement of the **insured**, the claimant, and the company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the company as a party to any action against the **insured** to determine the **insured's** liability, nor shall the company be impleaded by the **insured** or his legal representative. Bankruptcy or insolvency of the **insured** or of the **insured's** estate shall not relieve the company of any of its obligations hereunder.

**5. Other Insurance** The insurance afforded by this policy is primary insurance, except when stated to apply in excess of or contingent upon the absence of other insurance. When this insurance is primary and the **insured** has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of the company's liability under this policy shall not be reduced by the existence of such other insurance.

When both this insurance and other insurance apply to the loss on the same basis, whether primary, excess, or contingent, the company shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

(a) **Contribution by Equal Shares.** If all of such other valid and collectible insurance provides for contribution by equal shares, the company shall not be liable for a greater proportion of such loss than would be payable if each insurer contributes an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid; and, with respect to any amount of loss not so paid, the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.

(b) **Contribution by Limits.** If any of such other insurance does not provide for contribution by equal shares, the company shall not be liable for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

**6. Subrogation** In the event of any payment under this policy, the company shall be subrogated to all the **insured's** rights of recovery therefor against any person or organization and the **insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **insured** shall do nothing after loss to prejudice such rights.

## EXCLUSIONS

This insurance does not apply:

- (a) to **bodily injury, property damage, or environmental damage** which is expected or intended from the standpoint of the insured;
- (b) to liability assumed by the insured under any contract or agreement, but this exclusion does not apply to liability that the insured would have in the absence of such contract or agreement;
- (c) to any obligation for which the insured or any carrier as his insurer may be held liable under any workers' compensation, unemployment compensation, or disability benefits law, or under any similar law;
- (d) to **bodily injury** to any employee of the insured arising out of and in the course of his employment by the insured or to any obligation of the insured to indemnify another because of damages arising out of such injury;
- (e) to **property damage or environmental damage** to
  - (1) an insured site, or
  - (2) property owned or occupied by or rented to the insured, or
  - (3) property used by the insured, or
  - (4) property in the care, custody, or control of the insured or as to which the insured is for any purpose exercising physical control;
- (f) to **property damage or environmental damage** to premises alienated by the named insured arising out of such premises or any part thereof;
- (g) to **bodily injury, property damage, or environmental damage** included within the **completed operations hazard** or the **products hazard**, and arising out of an emission, discharge, release, or escape which takes place away from any insured site owned by, rented or loaned to a named insured;
- (h) to **bodily injury, property damage, or environmental damage** arising out of the ownership or operation of any "offshore facility" as defined in the Outer Continental Shelf Lands Act Amendment of 1978 or the Clean Water Act of 1977 as amended 1978, or any "deepwater port" as defined in the Deepwater Port Act of 1974, as amended or as may be amended;
- (i) to **bodily injury, property damage, or environmental damage** arising out of any **pollution incident** emanating from a site used for the storage, disposal, processing, or treatment of any waste material, if the **pollution incident** occurs after the site is no longer in active use because of sealing off, abandonment, alienation, or closure, whether or not in compliance with the requirements of any statute, regulation, ordinance, directive, or order promulgated by any governmental body;
- (j) to **bodily injury, property damage, or environmental damage** arising out of the ownership, maintenance, operation, use, loading, or unloading of
  - (1) any aircraft, automobile, rolling stock, or watercraft owned or operated by or rented or loaned to any insured, or
  - (2) any other aircraft, automobile, rolling stock, or watercraft operated by any person in the course of employment by any insured;
- (k) to **bodily injury, property damage, or environmental damage** arising out of the emission, discharge, release, or escape of drilling fluid, oil, gas, or other fluids from any oil, gas, mineral, water, or geothermal well;
- (l) to **bodily injury, property damage, or environmental damage** arising out of a **pollution incident** which results from or is directly or indirectly attributable to failure to comply with any

applicable statute, regulation, ordinance, directive, or order relating to the protection of the environment and promulgated by any governmental body, provided that failure to comply is a willful or deliberate act or omission of

- (1) the insured, or
- (2) any named insured, or any member, partner, or executive officer thereof;
- (m) to **bodily injury, property damage, or environmental damage** arising out of acid rain;
- (n) to **environmental damage** outside the United States of America, its territories or possessions, Puerto Rico, or Canada;
- (o) 1. to **bodily injury, property damage, or environmental damage**
  - (a) with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
  - (b) resulting from the **hazardous properties of nuclear material** and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization;
- 2. under the Supplementary Payments provision relating to first aid, to expenses incurred with respect to **bodily injury** resulting from the **hazardous properties of nuclear material** and arising out of the operation of a nuclear facility by any person or organization;
- 3. to **bodily injury, property damage, or environmental damage** resulting from the **hazardous properties of nuclear material**, if
  - (a) the **nuclear material** (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;
  - (b) the **nuclear material** is contained in **spent fuel or waste** at any time possessed, handled, used, processed, stored, transported, or disposed of by or on behalf of an insured; or
  - (c) the **bodily injury, property damage, or environmental damage** arises out of the furnishing by an insured of services, materials, parts, or equipment in connection with the planning, construction, maintenance, operation, or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions, or Canada, this exclusion (c) applies only to **property damage** to such nuclear facility and any property thereat.

As used in this exclusion:

"hazardous properties" include radioactive, toxic, or explosive properties;

"nuclear material" means source material, special nuclear material, or byproduct material;

"source material," "special nuclear material," and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

**"spent fuel"** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

**"waste"** means any waste material (a) containing by-product material other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any one processed primarily for its source material content, and (b) resulting from the operation by any person or organization of any nuclear facility included under the first two paragraphs of the definition of nuclear facility;

**"nuclear facility"** means

- (a) any nuclear reactor;
- (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing, or packaging waste;
- (c) any equipment or device used for the processing, fabricating,

or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235.

- (d) any structure, basin, excavation, premises, or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site, and all premises used for such operations;

**"nuclear reactor"** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

**"property damage"** includes all forms of radioactive contamination of property.

### SUPPLEMENTARY PAYMENTS

The company will pay, in addition to the applicable limit of liability:

- (a) all expenses incurred by the company, all costs taxed against the insured in any suit defended by the company, and all interest on the entire amount of any judgment therein which accrues after entry of the judgment and before the company has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of the company's liability thereon;
- (b) premiums on appeal bonds required in any such suit and premiums on bonds to release attachments in any such suit for

an amount not in excess of the applicable limit of liability of this policy, but the company shall have no obligation to apply for or furnish any such bonds;

- (c) expenses incurred by the insured for first aid to others at the time of any accident, for bodily injury to which this policy applies;
- (d) reasonable expenses incurred by the insured at the company's request in assisting the company in the investigation or defense of any claim or suit, including actual loss of earnings not to exceed \$25 per day.

### II. PERSONS INSURED

Each of the following is an insured under this policy to the extent set forth below:

- (a) if the named insured is designated in the declarations as an individual, the person so designated, but only with respect to the conduct of a business of which he is the sole proprietor, and the spouse of the named insured with respect to the conduct of such a business;
- (b) if the named insured is designated in the declarations as a partnership or joint venture, the partnership or joint venture so designated and any partner or member thereof, but only with respect to his liability as such;
- (c) if the named insured is designated in the declarations as other than an individual, partnership, or joint venture, the organization so designated and any executive officer, director, or stockholder thereof while acting within the scope of his duties as such;
- (d) any employee of the named insured, other than an executive

officer, while acting within the scope of his duties as such, but the insurance afforded to such employee does not apply

- (1) to bodily injury to (a) another employee of the named insured arising out of or in the course of his employment, or (b) the named insured, or, if the named insured is a partnership or joint venture, any partner or member thereof;
- (2) to property damage or environmental damage to property owned, occupied or used by, rented to, in the care, custody, or control of, or over which physical control is being exercised for any purpose by (a) another employee of the named insured or (b) the named insured, or, if the named insured is a partnership or joint venture, any partner or member thereof.

This insurance does not apply to bodily injury, property damage, or environmental damage arising out of the conduct of any partnership or joint venture of which the insured is or was a partner or member and which is not designated in this policy as a named insured.

### III. LIMITS OF LIABILITY AND DEDUCTIBLE PROVISIONS

Regardless of the number of insureds under this policy, the number of claims made or suits brought, or the amount of clean-up costs incurred, the company's liability is limited as follows:

- (a) The total liability of the company for all damages because of all bodily injury and property damage to which this insurance applies and all clean-up costs incurred because of all environmental damage to which this insurance applies shall not exceed the limit of liability stated in the declarations as "aggregate."
- (b) Subject to the above provision with respect to "aggregate," the total liability of the company in any one pollution incident for all damages because of all bodily injury and property dam-

age and all clean-up costs incurred because of all environmental damage shall not exceed the lesser of:

- (1) the limit of liability stated in the declarations as "each pollution incident" reduced by the deductible amount, if any, shown therein, or
- (2) the combined amount of such damages and clean-up costs in excess of any such deductible amount.

The company may, or will if required by law, pay part or all of the deductible amount to effect settlement of any claim or suit; and upon notification of the action taken, the named insured shall promptly reimburse the company for such part of the deductible amount as has been paid by the company

**7. Changes** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the company from asserting any right under the terms of this policy, nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy.

**8. Assignment** Assignment of interest under this policy shall not bind the company until its consent is endorsed hereon; if, however, the **named insured** shall die, such insurance as is afforded by this policy shall apply (1) to the **named insured's** legal representative, as the **named insured**, but only while acting within the scope of his duties as such, and (2) with respect to the property of the **named insured**, to the person having proper temporary custody thereof, as **insured**, but only until the appointment and qualification of the legal representative.

**9. Cancellation** This policy may be cancelled by the **named insured** by mailing to the company written notice stating when thereafter the cancellation shall be effective. This policy may be cancelled by the company by mailing to the **named insured**, at the address shown in this policy, written notice stating when not less than thirty days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice.

The effective date of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the **named insured** or by the company shall be equivalent to mailing.

If this policy is issued to comply with any law or regulation which requires notice of cancellation to any governmental body, cancell-

ation may not be effected until the required notice has been provided by the **named insured** or the company.

If the company cancels, earned premium shall be computed pro rata. If the **named insured** cancels, the earned premium shall be the pro rata earned premium plus 10% of the pro rata unearned premium. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

**10. Declarations** By acceptance of this policy, the **named insured** agrees that the statements in the declarations are his agreements and representations, that this policy is issued in reliance upon the truth of such representations, and that this policy embodies all agreements existing between himself and the company or any of its agents relating to this insurance.

**11. Sole Agent** The **insured** first named in Item 1 of the declarations shall act on behalf of all **insureds** with respect to giving and receiving notice of cancellation, accepting any endorsement issued to form a part of this policy, and receiving return premium, if any; and is charged with the responsibility for notifying the company of any changes of members, partners, officers, directors, stockholders, or employees or any other change which might affect the insurance hereunder.

**12. Mutual Policy Conditions** PARTICIPATION CLAUSE WITHOUT CONTINGENT LIABILITY. No Contingent Liability: This policy is non-assessable. The policyholder is a member of the company and shall participate, to the extent and upon the conditions fixed and determined by the Board of Directors in accordance with the provisions of law, in the distribution of dividends so fixed and determined.

---

IN WITNESS WHEREOF, the EMPLOYERS INSURANCE OF WAUSAU A Mutual Company has caused this policy to be signed by its president and secretary at Wausau, Wisconsin, and countersigned on the declarations page by a duly authorized representative of the company.

*R. J. Wendorff*  
Secretary

*Harold D. Viste*  
President

# LENOX

INCORPORATED

OLD PRINCETON PIKE

LAWRENCEVILLE, NEW JERSEY 08648

ELIZABETH MCCOY YERMACK  
SENIOR STAFF ATTORNEY

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

CC - February 8, 1983

Ms. Carmen Negron, Assistant  
Grants Administration Branch  
Office of Policy & Management  
U. S. Environmental Protection Agency  
26 Federal Plaza  
New York, New York 10278

Re: Lenox China, Inc. EPA Identification #NJDO<sup>0</sup>2325074

Dear Ms. Negron:

This letter is to confirm our conversation of February 8, 1983 in which you checked the Lenox China, Incorporated file and determined that Lenox China, Incorporated is indeed in complete compliance with regard to both financial assurance and insurance for closure of its sole manufacturing facility, as well as post closure monitoring. You confirmed that all of the appropriate information had been submitted to you in timely fashion with regard to all requirements of 40 CFR Section 265.143 (amended on April 7, 1982) as well as all other obligations imposed on facilities such as the Lenox China, Incorporated facility by the Code of Federal Regulations. It is my understanding that all corrections have now been made in the file as well as in the computer data sheets and that this problem should not surface again. I further understand that a letter of apology will be sent to Lenox China, Incorporated in the near future.

In order that the Lenox China, Incorporated files in other locations of the Environmental Protection Agency may be corrected as well, I am enclosing copies of the appropriate documents which indicate our full compliance with the Regulations:

1. A letter to Ms. Jacqueline E. Schafer, Regional Administrator, dated July 19, 1982 along with the envelope, that had been returned as undeliverable to Ms. Schafer.

**LENOX**  
INCORPORATED

Ms. Carmen Negron, Assistant  
February 8, 1983  
Page Two

2. A letter to Ms. Jacqueline E. Schafer, dated July 2, 1982 from the Vice President-Finance of Lenox, Incorporated in compliance with Federal Regulations for demonstration of financial assurance with regard to closure costs.

3. Special report dated July 2, 1982 from our independent certified public accounts, Touche Ross & Co.

4. Lenox, Incorporated's Corporate Guarantee for Closure or Post-Closure Care.

5. Transmittal and Certificate sent to EPA in New York, and in Region #3 in Philadelphia. This includes an Employers of Wausau Impairment Liability Policy packet as well the account for the Employers of Wausau policy #222408043430.

6. Memorandum of Insurance which was discussed with Mr. William Shriemp, Region #3 EPA Philadelphia who assured us that that would suffice until Employers of Wausau was able to issue a Certificate of Insurance. It is our understanding that this Certificate of Insurance will be issued in the very near future and will be forwarded to the proper EPA offices as soon as possible.

I very much appreciate your taking the time to investigate our file and make the determination that we are in complete compliance with the Regulations. I will look forward to receiving a letter confirming this fact at your earliest convenience.

Very truly yours,

LENOX, INCORPORATED



Elizabeth McCoy Yermack

EMY:bfs

Enclosures

cc: Helen Beggun, Chief-Grants Administration Branch  
Joseph Cvinar  
Conrad Simon, Director Air and Waste Management-U.S. EPA  
A. J. Gustray, Director Facility Engineering-Lenox China, Incorporated  
J. G. Fitzpatrick, Assistant Vice President-Manufacturing Lenox China, Incorporated  
David Henkels, Account Coordinator-Fred S. James & Co., Inc.  
R. Beling-Fred S. James & Co., Inc.  
W. H. Clark, Treasurer-Lenox China, Incorporated



*Frank Ferguson*  
*J. Cumar*

# LENOX

INCORPORATED

OLD PRINCETON PIKE

LAWRENCEVILLE, NEW JERSEY 08648

ELIZABETH MCCOY YERMACK  
SENIOR STAFF ATTORNEY

CEB-March 16, 1983

Ms. Jacqueline E. Schafer  
Regional Administrator  
US EPA. Room 900  
26 Federal Plaza  
New York, New York 10278

Re: Hazardous Waste Facility Certificate for Lenox China, Inc.

Dear Ms. Schafer:

Attached is the Hazardous Waste Certificate of Pollution Liability Insurance for Lenox, Incorporated's wholly owned subsidiary, Lenox China, Inc. This Certificate is in compliance with the EPA's regulations and provides evidence that sudden and nonsudden coverages are in effect with this Certificate. This Certificate replaces the interim Certificate you received last month from Employers Insurance of Wausau Insurance Company.

I have been assured that this completes our file.  
Please notify me at once if this is not the case.

Very truly yours,

LENOX, INCORPORATED

*Elizabeth McCoy Yermack*  
Elizabeth McCoy Yermack

EMY:bfs  
Enclosure(s)

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

641-3700

# Wausau Insurance Companies

## HAZARDOUS WASTE FACILITY CERTIFICATE OF POLLUTION LIABILITY INSURANCE

1. Employers Insurance of Wausau, A Mutual (name of Insurer) Company (the "Insurer"), of 1818 Market Street, (address of Insurer)  
Philadelphia, PA 19103 hereby certifies that it has issued pollution liability insurance covering bodily injury and property damage to Lenox, Inc. (name of insured)  
(the "insured"), of P.O. Box 6449, Lawrenceville, NJ 08648 (address of insured)

in connection with the insured's obligation to demonstrate financial responsibility under 40 CFR 264.147 or 265.147.

The coverage applies at:

**EPA Identification  
Number**

**Name and address  
(Show each facility separately)**

NJD002325074

Lenox, China, Inc. Tilton Road, Pomona, NJ 08240

for ☐ Sudden accidental occurrences ☐ Nonsudden accidental occurrences  
☒ Sudden and nonsudden accidental occurrences.

The limits of liability are \$ 10000000. Each Occurrence and \$ 20000000. annual aggregate, exclusive of legal defense costs. The coverage is provided under policy number 2224-08-043430 issued on March 3, 1983. The effective date of said policy is January 12, 1983.

2. The Insurer further certifies the following with respect to the insurance described in paragraph 1.

- (a) Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy.
- (b) The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in 40 CFR 264.147(f) or 265.147(f).
- (c) Whenever requested by a Regional Administrator of the U.S. Environmental Protection Agency (EPA), the Insurer agrees to furnish to the Regional Administrator a signed duplicate original of the policy and all endorsements.
- (d) Cancellation of the Insurance, whether by the Insurer or the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the Regional Administrator(s) of the EPA Region(s) in which the facility(ies) is (are) located.
- (e) Any other termination of the insurance will be effective only upon written notice and only after the expiration of thirty (30) days after a copy of such written notice is received by the Regional Administrator(s) of the EPA Region(s) in which the facility(ies) is (are) located.

I hereby certify that the wording of this instrument is identical to the wording specified in 40 CFR 264.151(j) as such regulation was constituted on the date first above written, and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as excess or surplus lines insurer, in one or more States.

Special Provisions:

Issued to:

Jacqueline E. Schafer  
Regional Administrator  
US EPA, Room 900  
26 Federal Plaza  
New York, New York 10278

*David P. Keller*

(Signature of Authorized Representative of Insurer)

David Keller (Type Name) Regional Casualty Underwriting Mgr. (Title)

Authorized Representative of

Employers Insurance of Wausau, A Mutual Company

(Name of Insurer)

1818 Market Street, Philadelphia, PA 19103

(Address of Representative)

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

PE84-  
DATE:

MAR 13 1984

26

SUBJECT: Review of Financial Responsibility Documents

FROM: Ernest A. Regna, Chief  
Solid Waste Branch (2AWM-SW)*E.A. Regna*TO: Helen Beggan, Chief  
Grants Administration Branch (2PM-GRA)Mar 14 1984  
EPA  
REC'D*file**Camp*

In accordance with the requirements of the Resource Conservation and Recovery Act (RCRA) the facility listed below has submitted a Part B permit Application which includes documents relevant to the financial responsibility requirements.

The pertinent documents are enclosed for:

Lenox China  
Pomona, New Jersey  
EPA ID No. NJD002325074

Given the Solid Waste Branch's schedule for permit development, we would appreciate your written comments on or about April 21, 1984. If you have any questions, or require additional information on this facility, please contact Tom Taccone, of my staff, at X-1829.

FINANCIAL ASSURANCE MECHANISM FOR CLOSURE

TRUST AGREEMENT

Trust AGREEMENT, the "Agreement" entered into as of February 15, 1984 by and between LENOX, INCORPORATED, a New Jersey Corporation, the "Grantor", and NEW JERSEY NATIONAL BANK, the "Trustee".

Whereas, the New Jersey Department of Environmental Protection, "NJDEP", an agency of the State of New Jersey has established certain regulations applicable to the Grantor, requiring that an owner or operator of a hazardous waste management facility shall provide assurance that funds will be available when needed for closure and/or post-closure care of the facility.

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein.

Whereas, the Grantor, acting through its duly authorized officers has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into the Agreement and any successor Trustee.

Section 2. Identification of Facilities and Cost Estimates.  
This Agreement pertains to the facilities and cost estimates identified on attached Schedule A.

Section 3. Establishment of Fund.

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of NJDEP. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B, attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the NJDEP.

Section 4. Payment for Closure and Post-Closure Care.

The Trustee shall make payment from the Fund as the NJDEP Commissioner shall direct, in writing, to provide for the payment of the costs of closure and/or post-closure care of the facilities covered by this Agreement. The Trustee shall reimburse the

Grantor or other persons, as specified by the NJDEP, from the fund for closure and post-closure expenditures in such amounts as the NJDEP shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts, as the NJDEP specifies in writing. Upon refund, such funds shall no longer constitute part of the fund, as defined herein.

#### Section 5. Payments Comprising the Fund.

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

#### Section 6. Trustee Management.

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee shall discharge his duties with respect to the Trust fund solely in the interest of the beneficiary and with the care, skill, prudence and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities or any of their affiliates, as defined in the Investment Company Act of 1940, as amended, 15

U.S.C. 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and

(iii) The Trustee is authorized to hold cash awaiting investment of distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

#### Section 7. Commingling and Investment.

The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

#### Section 8. Express Powers of Trustee.

Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expedience of any such sale or other disposition;

(b) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person or to deposit or arrange for the deposit of any securities issued by the United States Government or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and



(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses.

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section. 10. Annual Valuation.

The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the NJDEP a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the NJDEP shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel.

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation.

The Trustee shall be entitled to reasonable compensation for its services, as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee.

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason, the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the NJDEP and the present

Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by the Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee.

All orders, requests and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests and instructions by the NJDEP to the Trustee shall be in writing, signed by the NJDEP Commissioner or his/her designee and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or NJDEP hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or NJDEP, except as provided for herein.

Section 15. Notice of Nonpayment.

The Trustee shall notify the Grantor and the NJDEP by certified mail within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no

payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement.

This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee and the NJDEP or by the Trustee and the NJDEP if the Grantor ceases to exist.

Section 17. Irrevocability and Termination.

Subject to the right of the parties to amend this Agreement, as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee and the NJDEP or of the Trustee and the NJDEP, if the Grantor ceases to exist. The Trust shall terminate if closure results in the removal of all hazardous waste materials from the facility and there is shown to be no further need for expenditures from the Trust for closure and/or post closure purposes. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification.

The Trustee shall not incur personal liability of any nature in connection with any act of omission, made in good faith, in the administration of this Trust or in carrying out any directions by the Grantor or the NJDEP issued in accordance with this Agreement.

The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law.

This Agreement shall be administered, construed and enforced according to the laws of the State of New Jersey.

Section 20. Interpretation.

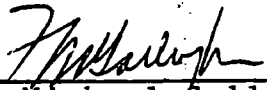
As used in this Agreement, words in the singular include the plural and words in the plural include the singular.

The descriptive headings for each Section of this Agreement shall not affect the interpretation of the legal efficacy of this Agreement.


In Witness Whereof the parties have caused this Agreement to be executed by their respective officers, duly authorized, and their corporate seals to be hereunto affixed and attested, as of the date first above written:

The parties below certify that the wording of this Agreement is identical to the wording specified in N.J.A.C. 7:26-9 (Appendix A) as such regulations were constituted on the date first above written.

Lenox, Inc.

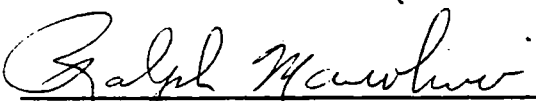
  
F. Michael Gallagher,  
Vice President, Finance

Attest:

  
Stephen F. Lichtenstein,  
Secretary

(seal)

Trustee: New Jersey National Bank  
Attest:

  
Ralph Maiolino  
Assistant Vice President

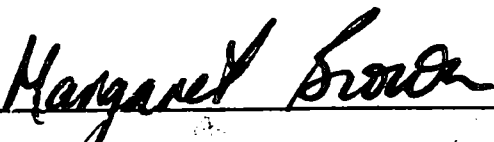
(seal)

CERTIFICATION OF ACKNOWLEDGEMENT

State of New Jersey

County of Mercer

On this day the 7th of February, 1984 before me personally came Stephen F. Lichtenstein, to me known, who, being by me duly sworn, did depose and say that he is the Secretary, Vice-President and General Counsel of Lenox, Incorporated, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to such instruments is such corporate seal; and that he signed his name thereto by like order.

  
\_\_\_\_\_  
Notary Public

MARGARET A. BROWN  
A Notary Public of New Jersey  
My Commission Expires Sept. 27, 1988

CERTIFICATION OF ACKNOWLEDGEMENT

State of New Jersey

County of Mercer

On this day the 16<sup>th</sup> of February, 1984 before me personally came Ralph Maiolino, to me known, who, being duly sworn, did depose and say that he is the Assistant Vice President of New Jersey National Bank, the Corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to such instruments is such corporate seal, and that he signed his name thereto by like order.

Karen J. Bickett

Notary Public

KAREN J. BICKETT  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires March 9, 1987



SCHEDULE A.

LENOX CHINA  
TILTON ROAD  
POMONA, NJ 08240  
EPA ID#NJD002325074

Estimated Cost of Closure (1983 Dollars)  
(for Glaze Basin)

Lenox China estimates the cost of physical closure as follows:

Soil Testing Program	\$ 3,300.00
Removal of Residual Soil Contamination/Treatment in Onsite Industrial Treatment Facility	207,600.00
Spill Prevention Controls	500.00
Regrade with Clean Fill	18,500.00
New Cover with Asphalt Cap to Conform with the Surrounding Parking Lot	3,600.00
Decontaminate Equipment	2,500.00
Certification by Registered Professional Engineer	1,800.00
85% for contingencies	<u>202,100.00</u>
	\$439,900.00

Amendments/Adjustments

Closure costs are estimated as of January 10, 1984. Lenox will adjust its closure cost estimate by January 25, 1985 which is within 15 days of the anniversary date of the initial closure cost estimate.

Lenox will also adjust the closure cost estimate to reflect any significant modifications to this plan. Any such modification will be made via an attachment describing the modification, the date of modification, and any changed cost estimates.

Schedule A  
LENOX CHINA  
EPA ID# NJD002325074  
Page 2

Estimated Cost of Closure (1983 Dollars)  
(for Slip Basin)

Lenox China estimates the cost of physical closure as follows:

Soil Testing Program	\$ 3,300.00
Removal of Residual Soil Contamination/Treatment in Onsite Industrial Treatment Facility	218,200.00
Spill Prevention Controls	1,600.00
Regrade with Clean Fill	5,000.00
New Cover with Asphalt Cap to conform with the surrounding Parking Lot	15,000.00
Decontaminate Equipment	2,500.00
Certification by registered Professional Engineer	1,800.00
75% for contingencies	<u>185,600.00</u>
	\$433,000.00

Amendments/Adjustments

Closure costs are estimated as of January 10, 1984. Lenox will adjust its closure cost estimate by January 25, 1985 which is within 15 days of the anniversary date of the initial closure cost estimate.

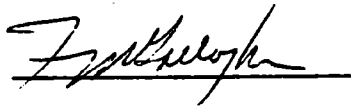
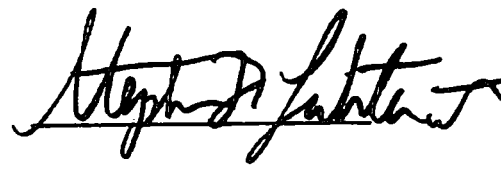
Lenox will also adjust the closure cost estimate to reflect any significant modification to this plan. Any such modification will be made via an attachment describing the modification, the date of modification, and any changed cost estimates.

SCHEDULE B.

The Trust will be funded by an irrevocable standby letter of credit, as required by N.J.A.C. 7:26-9.10(i) and 7:26-9.11(h), to the Commissioner, New Jersey Department of Environmental Protection, from New Jersey National Bank in the sum of \$1,000,000.00.

EXHIBIT A.

Persons authorized by the Grantor to furnish orders,  
requests and instructions to the Trustee shall be as follows:

<u>Name</u>	<u>Title</u>	<u>Signature</u>
F. Michael Gallagher	Vice President, Finance	
Stephen F. Lichtenstein	Vice President, Secretary and General Counsel	



# NEW JERSEY NATIONAL BANK

P.O. BOX 671 ONE WEST STATE STREET TRENTON, NEW JERSEY 08603 U.S.A.

CABLE ADDRESS: RETRAC TELEX NO: WUD 843 318-NJ NATL BK TRN

DATE: February 15, 1984

TO: New Jersey Dept. of Environmental Protection  
Bureau of Hazardous Waste Engineering  
32 E. Hanover Street  
Trenton, New Jersey 08625

Dear Sirs:

We hereby establish our Irrevocable Standby Letter of Credit No. 10847 in your favor, at the request and for the account of Lenox, Incorporated, 3190 Old Princeton Pike, New Jersey 08648, up to the aggregate amount of U.S. dollars 1,000,000.00, available upon presentation by you of:

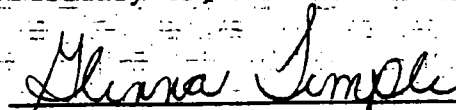
1. Your sight draft, bearing reference to this letter of credit, and
2. Your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under the authority of the New Jersey Solid Waste Management Act."

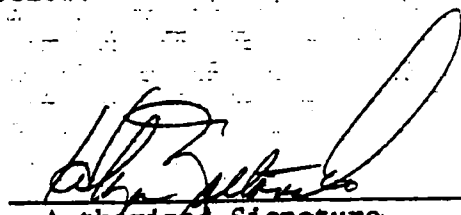
This letter of credit is effective as of February 15, 1984 and shall expire on February 15, 1985, but such expiration date shall be automatically extended for a period of one year on February 15, 1985 and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and Lenox China by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and Lenox China, as shown on the signed return receipts. Expiration may not occur while a compliance procedure is pending, as defined in N.J.A.C. 7:26-9.10\*(c)\*\*(b)2\*.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of Lenox, Incorporated in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in N.J.A.C. 7:26-9 (Appendix A), as such regulations were constituted on the date shown immediately below.

NEW JERSEY NATIONAL BANK  
February 15, 1984

  
Authorized Signature

  
Authorized Signature

This Letter of credit is subject to the Uniform Customs and Practice for Documentary Credits (1974 Revision) International Chamber of Commerce Publication No. 290.

Attached is the Certificate of Insurance for Lenox China, a division of Lenox, Inc., (formerly Lenox China, Inc.) for Environmental Impairment Policy #2224-08-043430 for non-sudden coverage and General Liability Policy, #2224-00-043430, for sudden coverage. Both policies are written by Employers of Wausau. Original copies of this Certificate of Insurance and Policies were filed with and received by the Bureau of Hazardous Waste Engineering of the Department of Environmental Protection in Trenton, New Jersey, on December 13, 1983.



# CERTIFICATE OF INSURANCE

## Wausau Insurance Companies

This is to certify that the insurance policies (described below by a policy number) written on forms in use by the company have been issued. This certificate is not a policy or a binder of insurance and does not in any way alter, amend or extend the coverage afforded by any policy referred to herein.

Name and address of Insured

LENOX CHINA, INC.  
P.O. BOX 6449  
LAWRENCEVILLE, N.J. 08648

Producer No.: S 0426  
Place: Philadelphia, Pa.  
Date Issued: 12/8/83  
Region:

Kind of Coverage	CO. NO.	Expiration Date	Policy Number	<small>** Unless otherwise indicated, this policy affords full coverage under the Workers' Compensation laws of all states (except states where coverage can be provided only by State Funds, and Canada) and as designated in the policy and endorsements for Coverage B — Employers' Liability.</small>											
Workers' Compensation**															
Comprehensive General Liability	XX	4/4/84	2224-00-04-3430	<b>Limits of Liability</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Bodily Injury</th> <th style="width: 50%;">Property Damage</th> </tr> </thead> <tbody> <tr> <td>Each Occurrence \$</td> <td>Each Occurrence \$</td> </tr> <tr> <td>Aggregate \$</td> <td>Aggregate \$</td> </tr> <tr> <td>Single Limit \$1,000,000.00</td> <td>Each Occurrence \$</td> </tr> <tr> <td>\$1,000,000.00</td> <td>Aggregate \$</td> </tr> </tbody> </table>		Bodily Injury	Property Damage	Each Occurrence \$	Each Occurrence \$	Aggregate \$	Aggregate \$	Single Limit \$1,000,000.00	Each Occurrence \$	\$1,000,000.00	Aggregate \$
Bodily Injury	Property Damage														
Each Occurrence \$	Each Occurrence \$														
Aggregate \$	Aggregate \$														
Single Limit \$1,000,000.00	Each Occurrence \$														
\$1,000,000.00	Aggregate \$														
Special Multi-Peril or Trademark (Section II only)															
Products - Completed Operations:				<input type="checkbox"/> Included <input type="checkbox"/> Excluded											
Contractual - All Written Contracts:				<input type="checkbox"/> Included <input type="checkbox"/> Not Covered											
Owners', Landlords' or Tenants' Liability				<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Each Occurrence \$</th> <th style="width: 50%;">Each Occurrence \$</th> </tr> </thead> <tbody> <tr> <td>Aggregate \$</td> <td>Aggregate \$</td> </tr> </tbody> </table>		Each Occurrence \$	Each Occurrence \$	Aggregate \$	Aggregate \$						
Each Occurrence \$	Each Occurrence \$														
Aggregate \$	Aggregate \$														
Contractual Liability — Designated Contracts Only				<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Each Occurrence \$</th> <th style="width: 50%;">Each Occurrence \$</th> </tr> </thead> <tbody> <tr> <td>Aggregate \$</td> <td>Aggregate \$</td> </tr> </tbody> </table>		Each Occurrence \$	Each Occurrence \$	Aggregate \$	Aggregate \$						
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Aggregate \$	Aggregate \$														
Automobile Liability				<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Per Person \$</th> <th style="width: 50%;">Per Person \$</th> </tr> </thead> <tbody> <tr> <td>Per Accident \$</td> <td>Per Accident \$</td> </tr> </tbody> </table>		Per Person \$	Per Person \$	Per Accident \$	Per Accident \$						
Per Person \$	Per Person \$														
Per Accident \$	Per Accident \$														
<input type="checkbox"/> All Owned Autos <input type="checkbox"/> Specified Autos Only				<input type="checkbox"/> Hired and Nonowned Autos											
Umbrella Liability		4/1/84	2224-04-04-3430	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">\$15,000,000.00 Each Occurrence</th> <th style="width: 50%;">Aggregate Products - Completed Operations</th> </tr> </thead> <tbody> <tr> <td>\$</td> <td>Retention</td> </tr> <tr> <td>\$10,000.00</td> <td></td> </tr> </tbody> </table>		\$15,000,000.00 Each Occurrence	Aggregate Products - Completed Operations	\$	Retention	\$10,000.00					
\$15,000,000.00 Each Occurrence	Aggregate Products - Completed Operations														
\$	Retention														
\$10,000.00															
Environmental Liability		1/12/85	2224-08-04-3430	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">\$10,000,000.00 each occurrence</th> <th style="width: 50%;">\$20,000,000.00 aggregate</th> </tr> </thead> <tbody> <tr> <td></td> <td>\$100,000.00 deductible</td> </tr> </tbody> </table>		\$10,000,000.00 each occurrence	\$20,000,000.00 aggregate		\$100,000.00 deductible						
\$10,000,000.00 each occurrence	\$20,000,000.00 aggregate														
	\$100,000.00 deductible														

Special Provisions/Locations/Specified Autos:

Sudden and Non-Sudden - Each of the above policies include either sudden or non-sudden pollution liability.

**CERTIFICATE ORIGINALLY ISSUED IS VOIDED. THIS CERTIFICATE CORRECTS AND REPLACES IT.**

Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policy (policies) described above is subject to all of the terms, exclusions and conditions of such policy (policies) during the term(s) thereof.

\*\* If any of a number in this column means that the coverage is afforded by the company designated by the same number.

Issued to:

New Jersey Department of Environmental Protection  
Trenton, N.J. 08025

\* Issued by 1. WAUSAU LLOYDS

2. EMPLOYERS INSURANCE OF WAUSAU A Mutual Company
3. WAUSAU UNDERWRITERS INSURANCE COMPANY
5. WORLDWIDE UNDERWRITERS INSURANCE COMPANY
7. ILLINOIS EMPLOYERS INSURANCE OF WAUSAU

*Handwritten signature: R. R. Keller*



# State of New Jersey

Christine Todd Whitman  
Governor

Department of Environmental Protection

Robert C. Shinn, Jr.  
Commissioner

Division of Solid and Hazardous Waste  
401 East State Street  
P.O. Box 414  
Trenton, New Jersey 08625-0414  
Phone# (609)292-9880  
Fax# (609)633-9839

NOV 16 1998

Natale Vernaci  
Director of Reporting  
Lenox Inc.  
100 Lenox Drive  
Lawrenceville NJ 08648

RE: Liability Coverage for Lenox China, Pomona, Atlantic County,  
EPA ID No. NJD 002 325 074

Dear Ms. Vernaci:

The Bureau of Hazardous Waste and Transfer Facilities ("Bureau") acknowledges receipt of your correspondence dated August 18, 1998, which provided an annual update of the financial test for liability coverage for the referenced facility.

Please be advised that the regulations regarding liability requirements for interim status facilities at 40 C.F.R. Part 265.147 do not require that liability coverage be maintained during the post-closure care period. However, should Lenox want to provide such coverage, it should be in accordance with the procedures cited within the regulations at 40 C.F.R. Part 265.147 and not the outdated regulations which were referenced in your August 18, 1998, correspondence.

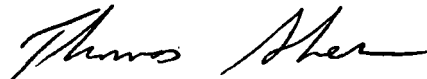
Therefore, Lenox shall notify the Bureau of its intentions regarding liability coverage for the referenced facility within thirty (30) days from the date of this notification.

Please be advised that any correspondence related to financial requirements for the referenced company should be sent to my attention at the address noted in the letterhead above.



If you have any questions regarding financial requirements, please call Scot J. Frow of my staff, or myself, at (609)292-9880.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Thomas Sherman".

Thomas Sherman, Chief  
Bureau of Hazardous Waste  
and Transfer Facilities

EP48/sjf

c: Barry Tornick, USEPA  
John Skovlak, BHWCE-South

DOCUMENT: FROW284

JUL 13 2007

JPMorgan Chase Bank N.A.  
Standby Letter of Credit Unit  
300 S. Riverside Plaza  
Mail Code: IL1-0236  
Chicago, Illinois 60606-0236

Re: L/C No.: CTCS-301510  
Amendment Requests (Amendment No. 1 and No. 2 dated April 5, 2007 and June 22, 2007) by JPMorgan Chase Bank, NA on behalf of Lenox Incorporated for their Lenox China facility in Pomona, New Jersey, NJD002325074

Dear Sir/Madam:

Enclosed please find the signed originals of our acceptance of the request for Amendment No. 2 dated June 22, 2007 and our denial of the request for Amendment No. 1 dated April 5, 2007.

Sincerely yours,

Andrew Park  
New Jersey Section  
RCRA Programs Branch

Enclosures

cc: John Kinkela, Lenox, w/encls.  
Frank Faranca, NJDEP, w/encls.

bcc: Barry Tornick, 2DEPP-RPB, w/o encls.  
Joel Golumbek, 2DECA-RCB, w/o encls.  
Andrew Park, 2 DEPP-RPB, w/o encls.  
RCRA Records Center, 15<sup>th</sup> fl. w/encls.

JPMorgan Chase Bank, N.A.  
c/o JPMorgan Treasury Services  
Global Trade Services  
10420 Highland Manor Drive  
Tampa, FL 33610

JUN 22, 2007

OUR L/C NO.: CTCS-301510

AMENDMENT NO.: 2

TO:  
U.S. ENVIRONMENTAL PROTECTION  
AGENCY  
REGIONAL ADMINISTRATION - REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

APPLICANT:  
LENOX INCORPORATED  
1414 RADCLIFFE STREET  
BRISTOL, PENNSYLVANIA 19007-5496

IN ACCORDANCE WITH INSTRUCTIONS RECEIVED, THE ABOVE REFERENCED STANDBY  
LETTER OF CREDIT HAS BEEN AMENDED AS FOLLOWS:

RECEIVER'S REFERENCE: NONREF

L/C DECREASED BY: USD610,000.00

TO A NEW AGGREGATE AMOUNT OF U.S.\$790,000.00 (SEVEN HUNDRED NINETY THOUSAND  
AND 00/100 U.S. DOLLARS).

REDUCTION OF \$610,000 IS TO COVER THE COST OF POST-CLOSURE CARE AND  
MAINTENANCE FOR THE TWO RCRA REGULATED UNITS IN WHICH A NEW STANDBY LC WILL  
BE ISSUED TO THE NJDEP.

ALL AMENDMENT UNDER THIS LETTER OF CREDIT ARE SUBJECT TO THE BENEFICIARY'S  
AGREEMENT, AS PER THE UNIFORM COMMERCIAL CODE. THIS AMENDMENT SHALL NOT BE  
CONSIDERED OPERATIVE UNLESS THE BENEFICIARY COMMUNICATES THEIR AGREEMENT TO  
THE AMENDED TERMS. PLEASE INDICATE YOUR ACCEPTANCE/REJECTION BY SIGNING  
AND RETURNING A COPY OF THIS AMENDMENT TO THE ATTENTION OF STANDBY LETTER  
OF CREDIT UNIT, 300 S. RIVERSIDE PLAZA, MAIL CODE IL1-0236, CHICAGO,  
ILLINOIS 60606-0236.

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGIONAL ADMINISTRATION - REGION 2

ACCEPTED BY:

ITS: *Alan J. Steinberg*  
*Alan Steinberg, Regional Administrator*DATE: 7/12/07

EPA REGION 2  
CORRESPONDENCE  
CONTROL OFFICE

2007 JUN 26 AM 11:42

JPMorgan Chase Bank, N.A.  
c/o JPMorgan Treasury Services  
Global Trade Services  
10420 Highland Manor Drive  
Tampa, FL 33610

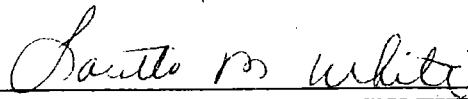
JUN 22, 2007  
OUR L/C NO.: CTCS-301510

AMENDMENT NO.: 2

REJECTED BY: \_\_\_\_\_  
ITS: \_\_\_\_\_  
DATE: \_\_\_\_\_

ALL OTHER TERMS AND CONDITIONS OF THE CREDIT REMAIN UNCHANGED.

NOTE: KINDLY SIGNIFY YOUR CONSENT TO THIS AMENDMENT BY SIGNING AND RETURNING THE ENCLOSED COPY DIRECTLY TO US OR THE ADVISING BANK (IF ONE IS PRESENT) FOR TRANSMISSION TO US. YOUR IMMEDIATE ATTENTION TO THIS MATTER WILL BE APPRECIATED IN ORDER THAT WE MAY COMPLETE OUR RECORDS.

  
AUTHORIZED SIGNATURE

JPMorgan Chase Bank, N.A.  
c/o JPMorgan Treasury Services  
Global Trade Services  
10420 Highland Manor Drive  
Tampa, FL 33610

APR 5, 2007  
OUR L/C NO.: CTCS-301510

AMENDMENT NO.: 1

TO:  
U.S. ENVIRONMENTAL PROTECTION  
AGENCY  
REGIONAL ADMINISTRATION - REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

APPLICANT:  
LENOX INCORPORATED  
1414 RADCLIFFE STREET  
BRISTOL, PENNSYLVANIA 19007-5496

IN ACCORDANCE WITH INSTRUCTIONS RECEIVED, THE ABOVE REFERENCED STANDBY  
LETTER OF CREDIT HAS BEEN AMENDED AS FOLLOWS:

RECEIVER'S REFERENCE: NONREF

WE HEREBY REQUEST CANCELLATION OF THE ABOVE REFERENCED LETTER OF CREDIT.

ALL AMENDMENT UNDER THIS LETTER OF CREDIT ARE SUBJECT TO THE BENEFICIARY'S  
AGREEMENT, AS PER THE UNIFORM COMMERCIAL CODE. CANCELLATION OF THIS LETTER  
OF CREDIT SHALL NOT BE CONSIDERED OPERATIVE UNLESS THE BENEFICIARY  
COMMUNICATES THEIR AGREEMENT TO CANCELLATION. PLEASE INDICATE YOUR  
ACCEPTANCE BY SIGNING AND RETURNING THIS AMENDMENT AND THE ORIGINAL LETTER  
OF CREDIT TO THE ATTENTION OF STANDBY LETTER OF CREDIT UNIT, 300 S.  
RIVERSIDE PLAZA, MAIL CODE ILL-0236, CHICAGO, ILLINOIS 60606-0236. SHOULD  
YOU REFUSE CANCELLATION OF THIS LETTER OF CREDIT, PLEASE INDICATE BY  
SIGNING AND RETURNING A COPY OF THIS AMENDMENT TO THE ADDRESS STATED  
HEREIN.

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGIONAL ADMINISTRATION - REGION 2

ACCEPTED BY: \_\_\_\_\_  
ITS: \_\_\_\_\_  
DATE: \_\_\_\_\_

REJECTED BY: Kathleen Callahan  
ITS: Alan Steinberg Regional Administrator, EEP Region 2  
DATE: 6/22/07

JPMorgan Chase Bank, N.A.  
c/o JPMorgan Treasury Services  
Global Trade Services  
10420 Highland Manor Drive  
Tampa, FL 33610

APR 5, 2007

OUR L/C NO.: CTCS-301510

AMENDMENT NO.: 1

ALL OTHER TERMS AND CONDITIONS OF THE CREDIT REMAIN UNCHANGED.

NOTE: KINDLY SIGNIFY YOUR CONSENT TO THIS AMENDMENT BY SIGNING AND RETURNING THE ENCLOSED COPY DIRECTLY TO US OR THE ADVISING BANK (IF ONE IS PRESENT) FOR TRANSMISSION TO US. YOUR IMMEDIATE ATTENTION TO THIS MATTER WILL BE APPRECIATED IN ORDER THAT WE MAY COMPLETE OUR RECORDS.

*E. Aliosi*

AUTHORIZED SIGNATURE